United Nations S/PV.4837

Security Council

Fifty-eighth year

Provisional

4837th meeting

Wednesday, 8 October 2003, 10 a.m.

New York

President:	Mr. Negroponte	(United States of America)
Members:	Angola	Mr. Gaspar Martins
	Bulgaria	Mr. Tafrov
	Cameroon	Mr. Belinga-Eboutou
	Chile	Mr. Muñoz
	China	Mr. Zhang Yishan
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Guinea	Mr. Sow
	Mexico	Mr. Pujalte
	Pakistan	Mr. Akram
	Russian Federation	Mr. Gatilov
	Spain	Mr. Arias
	Syrian Arab Republic	Mr. Atieh
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry

Agenda

The situation in Bosnia and Herzegovina

Letter dated 25 September 2003 from the Secretary-General addressed to the President of the Security Council (S/2003/918)

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03-54670 (E)

The meeting was called to order at 10.20 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Bosnia and Herzegovina

Letter dated 25 September 2003 from the Secretary-General addressed to the President of the Security Council (S/2003/918)

The President: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina and Italy, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Kusljugić (Bosnia and Herzegovina) took a seat at the Council table; Mr. Spatafora (Italy) took the seat reserved for him at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall take it that the Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Lord Paddy Ashdown, High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina.

There being no objection, it is so decided.

I invite Lord Ashdown to take a seat at the Council table.

In accordance with the understanding reached in the Council's prior consultations and in the absence of objection, I shall take it that the Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Theodor Meron, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

There being no objection, it is so decided.

I invite Judge Meron to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I should like to draw the attention of the members of the Council to a letter dated 25 September 2003 from the Secretary-General addressed to the President of the Security Council, transmitting the twenty-fourth report of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, document S/2003/918.

At this meeting, the Security Council will hear briefings by the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina and by the President of the International Tribunal for the Former Yugoslavia. At the end of those briefings, I will give the floor to Council members who wish to make comments or ask questions.

I now give the floor to Lord Paddy Ashdown, High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina.

Lord Ashdown: Thank you, Mr. President, for inviting me here today.

It is a special pleasure to be here — and not just with my colleague Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia, with whom we have worked extremely closely. We shall both speak about our joint plans to create a domestic capacity for prosecuting war crimes in Bosnia and Herzegovina. I also express my pleasure at being here with my colleague the Ambassador of Bosnia and Herzegovina. One of the features of the last year has been an increasingly close partnership between the Bosnian authorities and us. I pay tribute not only to the Ambassador, but also to the Bosnia and Herzegovina authorities for all they have done to make that possible.

First, I would like to give the Council a more general view of the situation in Bosnia and Herzegovina. My report to the Secretary-General, annexed to document S/2003/918, which has been

distributed to members of the Council, covers the period 12 October 2002 to 31 August 2003. That report will be the basis of my briefing today.

When I was here last I had been in office for just over four months. If I recall correctly, I spoke then about my priorities, my intentions and my plans for the future. Today I would like to update the Council on what we have actually done in accordance with those original intentions, and on the concrete achievements of the past year. Let me stress that they are not my achievements; they are the achievements of the international community working in partnership with the authorities of Bosnia and Herzegovina. I shall then turn to what we in the Office of the High Representative believe are the challenges that still lie ahead of us.

I am conscious that the Council's time and attention have, for obvious reasons, been taken up by events elsewhere in the world since I last reported. The Balkans are — thankfully, let me underline — no longer at the centre of the international agenda of problems. In so far as there is a renewed interest in the Balkans, it is because what has happened there as a result of the United Nations having taken the lead in peace and stabilization issues now offers us more opportunities than difficulties.

Out of the glare of the media spotlight, the slow, unglamorous — but vital — work of entrenching Bosnia and Herzegovina's peace has continued. I remain impatient with the speed of that work, as indeed I must. I am well known, I fear, by my staff and by some in Bosnia and Herzegovina alike, as being a deeply impatient man. I think, by the by, that Bosnia and Herzegovina needs more impatient people. But although I remain impatient, I am happy to report that I believe that real progress is now being made.

Under the slogan with which we started my mandate — "Justice and Jobs" — we have maintained our primary focus on the two key priorities: establishing the rule of law and reforming Bosnia and Herzegovina's weak and aid-dependent economy. It might be argued that those are priorities that we should have been pushing earlier, but they are now being pushed ahead fast — for some uncomfortably fast.

The process of bringing Bosnia and Herzegovina's police forces up to European and international standards goes on apace. The European Union Police Mission, which picked up where the United Nations left off, monitoring and mentoring the police officers that the International Police Task Force trained and certified, has continued.

The Herculean task of reforming the entire judiciary and court system continues apace, and is on track for completion in the next five to six months, thanks in large measure to the exceptional work done by my colleague Bernard Fassier, Senior Deputy High Representative who, with your agreement, Mr. President, may add a word or two later, particularly on domestic war crimes issues.

Thanks to that work, I am proud to be able to tell the Council that, as a result of the efforts that have been made, not least by the authorities of Bosnia and Herzegovina themselves, Bosnia and Herzegovina is now the first country in the Balkans to have the archetypal prerequisite of a modern State: complete separation between the judicial branch and the executive. We have now created independent high judicial and prosecutorial Councils to ensure that that separation is properly maintained.

Meanwhile, the new State Court, with its special panels for organized crime, has been created from scratch. It is staffed with international as well as Bosnian prosecutors and judges, who, working in partnership, are armed with new criminal codes and criminal procedure codes written by Bosnian lawyers. That structure was introduced last January and the Court is now engaged in trying and convicting criminals. The Special Chamber will shortly hear the biggest human-trafficking case in Bosnian history — a case which has not just involved the illegal trafficking of women, but one in which those who are charged, if found guilty, will prove to have been among those people who have held to ransom a certain area of Bosnia and Herzegovina for far too long.

It is not just organized criminal networks, however, that we are after. In the past year, we have begun systematically to attack the networks that provide sustenance and support to war criminals as well. By taking aggressive action to block their bank accounts and investigate their businesses and by restricting, through European Union and other visa-ban processes, their freedom to travel, we are slowly tightening the noose around the likes of Radovan Karadzic and those who helped him to evade justice, so making it inevitable that they will soon be brought to justice.

There is a long, long way to go — of course there is — and I do not wish in any sense to be complacent about the journey that has still to be travelled. Nevertheless, bit by bit, Bosnia's lawless rule is being replaced by the rule of law.

On the economic front, we have started to drive a bulldozer through the mass of red tape and regulations that entangles businesses, prevents enterprise and deters investment. Bosnia's business community has come together on what has become known as the "bulldozer committee", a panel of local business representatives — I stress "local" — that prepares concrete, practical reforms and, in the first — ever civil society dialogue with Government, puts them to Governments and Parliaments for adoption. It has proved highly successful.

The authorities of Bosnia and Herzegovina, Governments and Parliaments have risen to the challenge that is put to them by the country's business community. Fifty economic reforms that make it easier to form businesses and start enterprises have been passed in 180 days and another 50 are in the pipeline. There surely cannot be many countries represented in this building that have reformed their economies to liberalize their markets with such aggressive speed.

Again, there is still a very long way to go, but, as noted in the recent country report on Bosnia and Herzegovina from the International Monetary Fund (IMF) — not well known for handing out easy praise — the macroeconomic framework of Bosnia is being strengthened at commendable speed. Indeed, the report says that the macroeconomic framework over the past year has been strengthened at a faster pace than the IMF had previously known for similar countries in a similar position.

Meanwhile, for some time now we have also enjoyed low inflation and a stable currency, thanks in no small measure to the excellent work of the Central Bank and its Governor, Peter Nicholl, one of the primary architects of Bosnia and Herzegovina's economic stability and one of the unsung heroes of the peace implementation process.

Now we are tackling the other great structural reforms, starting with the public finances that affect the ordinary citizen. Bosnia and Herzegovina's elaborate, excessively decentralized governmental structure was designed to protect group political interests, not to meet individual citizens' needs. One of the changes that Bosnia and Herzegovina has to make is from a structure designed to protect groups to a structure designed to protect individual citizens. That system — the result, of course, of the Dayton Agreement — means that Bosnia and Herzegovina has 13 Prime Ministers, 10 cantonal assemblies, five Presidents, four levels of Government, three Parliaments, two armies and one vast administrative structure that can no longer be afforded if money is to go to ordinary citizens rather than to governance and bureaucracy.

That is why the Bosnia and Herzegovina authorities began this summer to reform the revenue system by creating a single, State-level indirect tax authority to replace the two rotten, corruption-prone entity customs and tax administrations that we have in place at the moment. This reform will also lead to the introduction of a modern, European-standard value added tax (VAT) system for the whole of Bosnia and Herzegovina. Our target date is 1 January 2006 — two years after we believe the legislation will be passed at the end of this winter. If we manage to achieve that, the introduction of a VAT system in such a fractured country in such a short period of time will, I think, be remarkable — about two and a half times faster than any other country will have done it — but that is our aim and we are determined to stick to it.

Securing the revenue base is only part of the picture, of course, which is why the authorities have agreed to further bear down on public expenditure, reform the public administration and reduce the size of the public sector. This is a major, central and urgent task for the year ahead. As the IMF has recently stated, the benefits of such changes are already beginning to make themselves felt. As we bear down on public expenditure, we believe, savings equivalent to about 1 per cent of the gross domestic product could be expected in next year's budget. We should be able to return those savings to the citizens of Bosnia and Herzegovina.

I think I can say that the agenda I outlined last year has begun to take shape and that the reforms have begun to bite. I would not underestimate the task that is ahead of us, but we are nevertheless broadly where I hoped we would be when I spoke to the Council a year ago.

Perhaps more encouraging even than this, the Council may find, is a less measurable but more important shift that I think we can say we have started

to detect. It is relatively easy relatively quickly to change the "hardware" of the State — its institutions. It is much more difficult to change the "software" of the State — people's attitudes and their sense of belonging — but here, slowly, changes appear to be coming, too. There has been a shift in the political culture, a shift in the political mindset. It would be easy, of course, to overstate the case, but there are now the first signs that the Bosnian authorities are beginning to move beyond the old, sterile, confrontational politics of the immediate post-conflict period and towards a more rational, more pragmatic politics focused on the bread-and-butter issues of everyday concern to their constituents and citizens.

That is not to say, of course, that the old enmities have died away or that deep-rooted suspicions do not remain. Of course they do. It would be remarkable if they did not, given that we are a mere seven years away from a war in which 250,000 people were killed — a higher proportion of Bosnia and Herzegovina's population than most European countries sustained in the Second World War. Nevertheless, the events of the past year, I think, do give cause for some guarded optimism. Let me explain why.

Since the turn of the year, we have established four commissions, each composed — let me underline — entirely of representatives from Bosnia and Herzegovina, under international chairmanship. We may chair, but they do. Those commissions have been tasked to tackle four of the most intractable issues facing the country, issues that until very recently we all considered to be too neuralgic, too difficult, to discuss: the creation of a State-level tax administration, which I referred to a few moments ago; the introduction of a unified State-level command and control for the armed forces, parting company with the strictures of Dayton; the creation of a modern, democratically-accountable State-level intelligence service; and the political and administrative unification of the still terribly divided city of Mostar.

It is too early to say with absolute certainty whether these will all meet with success, but the early signs are very encouraging. The Mostar Commission has just been established and is expected to report around the end of the year, but the other three commissions have all operated in an atmosphere of genuine, constructive debate, produced high-quality, European-standard legislative reforms, and forwarded them to Governments and Parliaments for adoption in the next couple of months.

I argue that these reforms are in many ways the most significant since the end of the Bosnian war almost eight years ago — significant because, for the first time, they have begun to break out of the Dayton prison. For the first time, they have used a previously neglected clause in the Dayton Peace Agreement allowing entities to pass some competencies from the entity level to the State in areas such as tax, defence and intelligence. That has strengthened the State as a functioning organ in Bosnia and Herzegovina. It has also provided a way for the three people working together in constructive dialogue to turn the golden key that unlocks the door of the Dayton prison.

In this way, the foundations of Dayton are finally being built on — through consensus, not by imposition of the international community — by the Bosnian authorities, through the Bosnian institutions, so as to build a more rational, more affordable and more sustainable State. Dayton is being used, not as in the past to block reform, but to enable it. We have started to amend Dayton within Dayton by agreement between the peoples. In a real sense the constitution of the country has now become the property of its people, not of the international community.

I would like to stress that this has happened not because of the coercive power of the High Representatives, the threat of imposition or removal, but because of the magnetic pull of the Euro-Atlantic structures — NATO and the European Union. That magnetic pull has now become as powerful as — and, in my view, it will become more powerful than — the scourge of the Bonn powers. That has started, genuinely, to take hold. It was that factor, far more than any threat from me, that resulted in the real changes that have taken place through the four commissions to which I referred earlier.

The significance of this fact is, in my view, already becoming apparent. Not only are we able steadily to tick the boxes of the Mission Implementation Plan of the Office of the High Representative — our guiding document as we track towards a change in that Office's mission — but we are able to do so increasingly without resorting so often to the use of the extraordinary and — let us face it — draconian powers invested in my Office. Indeed, I am glad to say that I have had to impose only half as many

laws and amendments this year as I did last year — a trend that I hope and anticipate will continue into 2004. That is a trend that we planned should happen, and it is happening.

That is the good news, and I would submit that there is a fair amount of it. There is, of course, bad news, and it would be wrong of me not to outline the task ahead.

The pace of reform remains too slow. The green shoots of the new type of politics that I have described may have started to appear, but I must stress that they remain fragile and could still be easily killed off. The new institutions that we have created are weak, under-funded and too often dysfunctional. The forces of criminality, obstruction and disintegration in Bosnian politics may be on the retreat, but they remain very powerful. The enemy is still there.

That brings me, finally, to the substantive topic of our discussion today: the unfinished business of bringing the war criminals of Bosnia and Herzegovina to justice and the need to develop a local capacity capable of taking over from the International Criminal Tribunal for the former Yugoslavia.

I need not remind members of the Security Council that resolution 1503 (2003), adopted on 28 August, noted that the establishment of a War Crimes Chamber within the State Court of Bosnia and Herzegovina is an essential prerequisite for achieving the objectives of the ICTY Completion Strategies and for pushing forward the process of peace and reconciliation. I would argue that it is also essential in the task of investing Bosnia and Herzegovina with the attributes of statehood. I wholeheartedly agree, of course, with that resolution, and I am proud that I will shortly be able to hand over to my colleague, Judge Meron, the Tribunal's President, who will speak on this subject from the perspective of the ICTY.

But before I do so I would like to make a few brief comments. First of all, let me underline the commitment of my Office, and of all the other international agencies in Bosnia and Herzegovina, to ensuring the success of this project. We are only too aware of the pernicious influence that indicted war criminals like Mr. Karadzic are still able to exert over Bosnia's political environment. Mr. Karadzic may no longer be able to block the process of reform, but he remains a baleful curse over the whole country, and the sooner that that is removed, the better. We know that peace cannot be described as fully entrenched until the perpetrators of the unspeakable crimes are finally brought to justice.

But there is little point in willing the ends unless we are also prepared to will the means. We have, collectively, made a good start. At the behest of the Security Council and the Peace Implementation Council (PIC), the Office of the High Representative and the ICTY have, together with the Organization for Security and Cooperation in Europe, the Council of Europe and the authorities of Bosnia and Herzegovina, produced detailed recommendations for the creation of a War Crimes Chamber within the State Court of Bosnia and Herzegovina. Within my Office, that effort has been led with great skill and dedication by my friend and colleague, Ambassador Bernard Fassier, who is sitting behind me.

I was tasked by the PIC Steering Board to establish an Implementation Task Force, co-chaired by my Office and the Minister for Justice of Bosnia and Herzegovina. That Task Force has, in turn, established a number of working groups to deal with specific issues relevant to the project, such as the renovation of the buildings where the trials will take place, the preparation of the legal framework, the review and transfer of ICTY cases and other related issues, not the least of which is witness protection.

My Office is also in the process of establishing a functioning State-level police force with investigative and law-enforcement powers. A witness protection department is also envisaged, and should become operational early next year. That department will need to expand over the course of the year if it is to provide protection for witnesses in war crimes cases.

Another issue that will need to be dealt with in the months ahead is the current lack of a State-level detention facility to serve such a capacity. The Implementation Task Force will need to address this, as well as the myriad of other problems involved in this project.

So we are making progress. But let me stress — I know that Judge Meron and Bernard Fassier will do likewise — that all of this is dependent on sufficient funding being found. If we will the ends, we have to will the means. I would like to remind the Council that the project has been costed at 28 million Euros for the first five years, plus — if we choose to follow that route — an additional 11 million Euros for the

construction and operation of a State-level prison. I simply invite those who find that expensive, to compare it to the costs of running the Tribunal at The Hague. But at the start, these two projects will have to be run in parallel. Some of that extra money will, of course, be met from the budget of Bosnia and Herzegovina. But it will inevitably require substantial international funding too.

We have already received pledges for funding from several Governments, and in this respect I am grateful and pay tribute to the Governments of Germany, the United Kingdom the United States and Italy. But we are nowhere near the targets yet. That is why I appeal to all members to exercise maximum influence for maximum attendance at the donor's conference in The Hague at the end of this month.

To sum up, I think that we are close to finishing the job in Bosnia and Herzegovina. We are close to our first, historic success in this relatively new but very difficult business of peace implementation. We cannot, however, bring closure to Bosnia and Herzegovina's terrible war, and we cannot bring peace to the relatives and loved ones of that war's 250,000 victims, until those who bear the guilt for that suffering are brought to justice. We owe it to them to make this project succeed. And I believe that we will.

The President: I thank Lord Ashdown for his very interesting and comprehensive briefing.

I now give the floor to the President of the International Tribunal for the Former Yugoslavia, Judge Theodor Meron.

Judge Meron: It is a great honour for me to address the Council today. The honour is magnified because I come before the Council in the company of Lord Ashdown. For many years now, Lord Ashdown has been a tireless and resourceful servant of the international community. I pay tribute to his wisdom, dedication, commitment and skill.

The Council has heard from Lord Ashdown about several aspects of his work in Bosnia and Herzegovina during the past year. I am here to add a few words of support and elaboration on one aspect of that work — the establishment of a special War Crimes Chamber within the State Court of Bosnia and Herzegovina.

The creation of the War Crimes Chamber in Sarajevo, as members know, has been a joint initiative of the Office of the High Representative (OHR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). This past February, my predecessor, as President of the ICTY, Claude Jorda of France, and Lord Ashdown's Principal Deputy, Bernard Fassier, initialled a joint proposal outlining the structure and the financing of the War Crimes Chamber. I twice had the honour to address the steering board of the Peace Implementation Council (PIC) about the proposal, and I am grateful that the PIC steering board endorsed the project in June. I am grateful as well that the Security Council added its imprimatur to the War Crimes Chamber in resolution 1503 of the 28 August 2003, called for its "expeditious establishment" and urged the donor community to support the project financially.

We are now moving from plans to action. Later this month, the ICTY will host an OHR donors conference in the Tribunal at The Hague. That conference, which builds on earlier meetings in Sarajevo, should put in place the War Crimes Chamber's financial foundation — the foundation which, as Lord Ashdown has explained, is absolutely essential for the success of this project. Once that foundation is laid, a series of working groups will be created to address many of the detailed policies needed to get the War Crimes Chamber running. Those groups, staffed by representatives from the OHR, the ICTY, relevant departments of the Bosnia and Herzegovina Government and interested groups such as the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and the European Union Police Mission, will address such issues as rules of procedure and evidence, witness protection, investigations, detention and transfer of cases and evidence from the ICTY.

The Sarajevo War Crimes Chamber will serve several important functions and will make a crucial contribution to the achievement of important goals of the international community.

First, from the perspective of the ICTY, the creation of the War Crimes Chamber will serve, as the Security Council recognized in resolution 1503, as "an essential prerequisite" for the success of the ICTY's completion strategy, its plan to complete its mission within the time-frame indicated by the Security Council. That completion strategy has a number of components, including focusing the work of the Tribunal more tightly on the prosecution of the most senior leaders suspected or accused of being most

responsible for crimes within the ICTY jurisdiction and enacting a series of internal procedural reforms designed to improve the efficiency of the Tribunal's proceedings. Some of those reforms have already been adopted. Others will soon be.

Within this overall completion strategy, the establishment of an orderly process for transferring certain cases from the ICTY to a judicial institution of an emerging Bosnian Government will play a vital role. Winding up the work of the ICTY in a reasoned and timely fashion will itself contribute to the process of reconstruction and reconciliation in the region. That orderly completion strategy will form an essential element in the legacy the Tribunal will leave to the international community's historic effort to bring accountability for those who commit terrible atrocities.

Secondly, as Lord Ashdown has indicated, the establishment of the War Crimes Chamber will contribute directly to the realization of the OHR Mission Implementation Plan. The War Crimes Chamber will make a powerful contribution to the overall efforts of the OHR to establish a firm foundation for the rule of law in the national institutions of Bosnia and Herzegovina. The experience local prosecutors and judges gain in the War Crimes Chamber will carry over to their work in other areas of law enforcement.

Thirdly, the War Crimes Chamber will ensure that the prosecution of war criminals takes place in Bosnia and Herzegovina in an efficient and fair manner, and in accordance with internationally recognized standards of due process.

At present, unfortunately, we cannot rely exclusively on the existing institutions in Bosnia and Herzegovina. Despite the gradual re-establishment of democratic institutions and the return of peace to the country, the local courts still suffer from significant structural difficulties, as well as from lack of cooperation between the entities; political pressures brought to bear on judges and prosecutors; the often mono-ethnic composition of the local courts; ethic bias; difficulties protecting victims and witnesses effectively; and lack of adequate training of court personnel.

While the OHR has initiated far-reaching and extremely important reforms of the judicial system, the process of reform will not be completed for several years. The establishment of a specialized War Crimes Chamber that will include international judges in its early years offers the best chance for rendering justice expeditiously and thus advancing the process of reconciliation in a timely way. The possibility of internationally credible war crimes prosecutions in entity or cantonal courts, unfortunately, cannot be contemplated as yet.

The establishment and the success of the War Crimes Chamber can play a crucial role in demonstrating the international community's commitment to ensuring justice in Bosnia and Herzegovina. It can contribute powerfully to the solid growth of the rule of law. Transferring to the people of Bosnia and Herzegovina themselves the responsibility for prosecuting war crimes committed in their territory can play an absolutely essential role in advancing that country's reconstruction and integration into the international community and Europe.

A tremendous amount of work remains to be done before the Chamber is up and running. The work runs the gamut from the construction and renovation of buildings to house the Chamber, to the enactment of laws, rules and regulations, to the hiring of local and international judges and prosecutors, to the establishment of mechanisms for the transfer of evidence and defendants. The international community must fully engage in this task if an imaginative blueprint is to be turned into a vital reality. I appeal to Council members to support the project warmly.

The President: I thank Judge Meron for his briefing and remarks.

Mr. Pleuger (Germany): Mr. President, thank you for convening this important meeting. At the outset, I would also like to thank Lord Ashdown and Judge Meron, not only for their very interesting and comprehensive reports, but also for what they are doing in the field.

The representative of Italy will later present the views of the European Union (EU), which we fully endorse, and my statement will therefore be limited to some general observations and some issues of criminal justice.

To focus on these issues is a particular challenge in a meeting that is honoured by the presence of our two speakers, Lord Ashdown and Judge Meron, the President of the ad hoc International Criminal Tribunal for the Former Yugoslavia — two persons representing,

each in his own way, the prospect of Bosnia and Herzegovina being rebuilt on a basis of justice and the rule of law.

I wish both of them the best of luck in their respective endeavours to advance the difficult and delicate, yet immensely important, process in Bosnia and Herzegovina.

We share Lord Ashdown's overall assessment of the present situation in Bosnia and Herzegovina. There have indeed been marked improvements in key areas such as security, the economy, monetary stability, the return of refugees and constitutional guarantees for the equality of the three ethnic groups.

But, on the other hand, there are remaining problems. These problem areas comprise particular, partly dysfunctional State structures and the notorious ethnical divide. Seven years after Dayton, the situation in Bosnia and Herzegovina is still more complex than in other countries in transition.

We commend Lord Ashdown for focusing the reform process on the rule of law, economic rehabilitation and on the consolidation of State structures. These are important steps into the right direction. We support the High Representative's approach to reforms in these areas. The Reform Commissions will have to play an important role, particularly in the fields of defence, taxes and intelligence services, as well as with regard to Mostar, as mentioned by Lord Ashdown.

Further progress in Bosnia and Herzegovina depends now to a large extent on the sense of ownership that the authorities develop. The future of the country cannot be that of an externally administered territory. Bosnia and Herzegovina must instead grow into its role as a fully sovereign State, with a view to participating in the European and trans-Atlantic structures.

We reassure Judge Meron of our continuous support, both political and material, to the International Criminal Tribunal for the Former Yugoslavia (ICTY). The Tribunal is a remarkable precedent for delivering impartial criminal justice. It is a milestone in international criminal justice and Germany will do its utmost to ensure that the Tribunal can fulfil its mission. Therefore, together with our partners of the European Union (EU), we will continue to urge all States concerned, including Bosnia and Herzegovina, to improve and intensify their cooperation with the ICTY, as this is an indispensable prerequisite for the timely and cost-effective delivery of justice.

Allow me to turn to two specific points of criminal justice:

First, in the Council's ministerial meeting of 24 September 2003 devoted to the question of justice and the rule of law, Germany insisted on the complementarity between national and international justice, a principle that we feel needs to be translated into specific arrangements, wherever feasible.

Clearly, Bosnia and Herzegovina is a case in point. Bosnia and Herzegovina should now be able, with international assistance, to bring war criminals to justice in national courts. Bosnia and Herzegovina's acceptance of this responsibility is an important indicator of its political will to gain ownership of its domestic matters.

Like all members of the Council, Germany therefore fully supports the establishment of a War Crimes Chamber at the State Court of Bosnia and Herzegovina. We would like to reiterate the call that the Council made to the international community, by means of Council resolution 1503 (2003), to support the establishment of that special Chamber. Germany has already pledged support in the shape of an important financial contribution and the secondment of an expert.

My second point pertains to the Council's second meeting on justice and the rule of law, on 30 September 2003. In this meeting, Under-Secretary-General Guéhenno said "By and large, though, the international tribunals have so far not always proved to be efficient or effective instruments for prosecuting and trying those suspected of the most serious crimes, and they have been too slow and too costly" (S/PV.4835).

I have no doubt that these remarks were made not as a criticism, but as an invitation to constantly evaluate our action and the performance of the bodies we have created and to draw lessons from this evaluation, so that we will be better equipped to address future challenges. Obviously, questions about a court's ability to deliver justice in a timely and cost-effective manner are very relevant.

The cases of Sierra Leone and of Bosnia and Herzegovina indicate that hybrid tribunals, or internationally assisted national courts, can be, under

certain circumstances, interesting and cost-effective alternatives. As far as international mechanisms of criminal justice are concerned, the Council should henceforth take into account the fact that, since the establishment of the International Criminal Court (ICC), there is an instrument of international justice that is permanently available, not just ad hoc, and that holds the promise to match, or even to exceed, the two ad hoc tribunals, in terms of judicial standards, public acceptance and effectiveness.

In conclusion, I would like to say that Germany would be very pleased to see ongoing cooperation and cross-fertilization between the various actors who operate in the sphere of international justice. We strongly suggest that in the future, the Council give increased consideration to the possibility of referring situations to the ICC whenever there is a need for international criminal justice.

The President: I thank the Ambassador of Germany and give the floor to the representative of the Syrian Arab Republic.

Mr. Atieh (Syria) (*spoke in Arabic*): Mr. President, we thank you for organizing this important meeting. We also welcome Lord Ashdown, the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina, and we thank him for the detailed and comprehensive briefing that he gave us regarding the situation in Bosnia and Herzegovina. We also wish to thank Judge Meron, the president of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and we commend him on his useful briefing on the trial of war criminals in Bosnia and Herzegovina. We are completely satisfied with Lord Ashdown's clarification of his vision of putting Bosnia and Herzegovina on the right track towards statehood. We are also gratified by the priority he has given to enhancing the rule of law, economic reform and the improvement of the basic institutions of governance in Bosnia and Herzegovina, and we support his slogan "justice and jobs."

At this crucial juncture, the reconstruction of Bosnia and Herzegovina depends on enhancing the rule of law through a fair and responsible judiciary that can deal with grave issues, such as financial crimes, organized crime and political corruption. We note with satisfaction the country's appointment of a governor, judges and prosecutors who can perform their duties efficiently. Freezing the assets of suspected war criminals is very important for stopping their activities and for enhancing the rule of law in the country in accordance with the pronouncements of the International Criminal Tribunal for the Former Yugoslavia.

On the other hand, we believe that economic reform should also be a priority to improve the living conditions of the people and to attain economic stability. This, in turn, would enhance the political process by reforming the banking, fiscal and other economic sectors.

We believe that the November 2002 Bulldozer Initiative will pave the way for growth, create greater employment opportunities, help improve bureaucracy and liberalize the economy, which we all seek. The contribution of many Member States and financial institutions to this Initiative will help to bring about economic growth so that the country may overcome the challenges that it is confronting in agriculture, transport, communications, electricity and other areas.

We would also like to emphasize another point: the return of refugees. Despite the encouraging numbers of returnees mentioned in the report, we believe that more efforts should be made to overcome the difficulties that can arise from the permanent return of refugees, including providing the necessities of daily life, so that they can, through social reintegration, help to rebuild their country.

We are indeed pleased to see the progress made, as Lord Ashdown has stated. We also took note of the difficulties that he mentioned, such as the slow pace of reform and weakness of the new institutions, as well as the fact that there are still enemies in Bosnia and Herzegovina. However, we believe that cooperation between Lord Ashdown and Judge Meron, in their respective fields, will help overcome the difficulties and challenges and protect the interests, security, integrity and stability of the people of Bosnia and Herzegovina.

Mr. De La Sablière (France) (*spoke in French*): I would like to thank Lord Ashdown and President Meron for their briefings, which complement the report of the High Representative.

I would like to make three comments. First, I reaffirm France's support for the action undertaken by Lord Ashdown in Bosnia and Herzegovina. We share the priorities that he has identified for his mission: the

rule of law and justice; economic reform and development; combating organized crime; structural reform; and return of refugees and displaced persons. His resolve has allowed for considerable progress on various matters.

I cannot be exhaustive, but I am pleased to highlight the fiscal reforms, which he mentioned, with the establishment of a State value-added tax and of an integrated customs service; the stepped-up campaign against organized crime and corruption, even if, as he pointed out, much remains to be done; the planned transfer of some cases from the International Criminal Tribunal for the Former Yugoslavia to the Bosnian judicial system; and, finally, the agreement by officials of Bosnia and Herzegovina to defence institutions reform proposed by James Locher's Commission. This progress also fosters the building of a modern State compatible with European integration and, within this framework, a transfer of responsibility to the Bosnians, which we so fervently wish to see.

Secondly, I would like to emphasize the need to be extremely vigilant in the implementation of the reform which the High Representative has been able to achieve. We note that local resistance, particularly from political parties, often prevents the implementation of these priority reforms. We should be similarly vigilant about cooperation with the International Criminal Tribunal for the Former Yugoslavia. We note with regret the lack of cooperation from the Republika Srpska, despite the demands of the international community, reiterated in resolution 1503 (2003) of 28 August.

Political leaders in Bosnia and Herzegovina approve the reforms put forward by the High Representative, with the support of the international community. We would like to be convinced, however, that they will choose to effectively implement their commitments in principle, because by doing so they will foster the integration of Bosnia and Herzegovina into the various arrangements of European cooperation.

Thirdly, I believe it is important to emphasize — and I fully agree with the statement to be made by the representative of Italy on behalf of the European Union — the considerable and growing commitment of the European Union in Bosnia and Herzegovina. It is a political, human and financial commitment. The dual function of Lord Ashdown, who is also the Special Representative of the European Union, reflects this.

Since 1991, Bosnia and Herzegovina has been the major beneficiary of community assistance to the Balkans. We hope that the donor conference to be held in The Hague at the end of the month will enable the European Union to make an overall contribution to an exit strategy for the International Criminal Tribunal to show our determination to ensure the success of international justice.

The European Union has also chosen to have its police mission take over from the International Police Task Force. In the area of security, currently covered by the Stabilization Force (SFOR), plans for involvement by the European Union are now being studied in cooperation with our major partners.

In this way, closer ties between Bosnia and Herzegovina and the European Union are under way. The European Commission is preparing a feasibility study for a future stabilization and association agreement, and it must report its conclusions by the end of the year. It is up to all Bosnian leader to act in order to speed up this process.

Mr. Muñoz (Chile) (*spoke in Spanish*): At the outset, I thank Lord Ashdown, High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, for his report on the situation in Bosnia and Herzegovina. We appreciate his efforts. We also welcome the briefing given by Judge Theodor Meron.

Still fresh in our memory are the 1990s, when the world witnessed in Bosnia and Herzegovina some of the bloodiest episodes in recent history. We still vividly recall the gross violations of the most fundamental human rights that occurred in, inter alia, Srebrenica, Zepa, Banja Luka and Sanski Most. The tragic outcome that, as Lord Ashdown said, about 250,000 people were killed or disappeared, and more than a million people became displaced persons or refugees, speaks for itself.

The progress made in recent years following the implementation of the Dayton Peace Agreement, in particular during the period in question, clearly indicates that the terrible days of the 1990s are receding into the past. We should like, inter alia, to emphasize the efforts made to combat crime and corruption directly by means of the establishment of appropriate institutions; the process of restructuring the court system at all levels; and the launching of expert reform commissions covering indirect tax policy, defence and intelligence.

The introduction of modern standards in public administration is a prerequisite for good governance and for transparency, and in that connection we wish to acknowledge the efforts of the State-level Civil Service Agency, which was created in May 2002.

Let me also mention the reforms made in the fields of banking, statistics and land registry, which contributed to the advances made by the so-called Bulldozer Committee, as well as the entry into force of the Law on Communications.

However, as was mentioned in Lord Ashdown's briefing, attention should be devoted to the still-fragile institutions and to the slow pace of and obstacles to reform, the appointment of public administration officials, and the restructuring of various public bodies.

The number of repatriated persons and the implementation of the property law all are auspicious signs. We agree, however, that, following the eventual dismantling of the Reconstruction and Return Task Force at the end of 2003, continued local and international support will be required for the return of the refugees.

A very important step forward has been taken in combating the networks that provide funding and support for key International Criminal Tribunal for the former Yugoslavia indictees, including Radovan Karadzic. We commend the fact that the Peace Implementation Council has tasked the High Representative with establishing a system for domestic prosecution of war crimes.

In this connection, a Special Chamber in the State Court of Bosnia and Herzegovina will contribute to the achievement of the general completion strategy adopted by the Security Council for the International Criminal Tribunal for the Former Yugoslavia. This important point is related, I believe, to what was very clearly recalled by the Ambassador of Germany — the fact that, in the process of ensuring that justice prevails, the local dimension is vital, without prejudice to the role of the special tribunals and of the international community, working together with national courts.

The strengthening of national judicial systems is important not only in re-establishing the rule of law and respect for law in general, but also to ensure the success of the completion strategy of both tribunals.

We believe also that broader cooperation on the part of all States and of regional and international organizations is another prerequisite for the successful achievement of the completion strategy, in particular as relates to the prosecution of all accused persons, including some who are still at large.

In conclusion, Bosnia and Herzegovina, given its long and rich history, had in the past to become a kind of crossroads — a meeting ground for different worlds. Today it is once again taking the path towards peaceful coexistence. And, as in past years, I should like to assure the Council that my country will continue to cooperate to ensure that this can happen, as we did until recently by contributing police officers to the United Nations Mission in Bosnia and Herzegovina (UNMIBH) and as we are doing today by contributing Chilean army officers.

Mr. Sow (Guinea) (*spoke in French*): My delegation commends the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, Lord Paddy Ashdown, for the significant progress achieved and for the quality of his report. I should like also to express our appreciation to Judge Theodor Meron, President of the International Tribunal for the former Yugoslavia, for his informative briefing and for his praiseworthy efforts in carrying out his mission.

My delegation notes the improvement in the functioning of the major institutions in the country and the securing of more stable funding for them as key achievements. Among other areas of progress — pursuant to the priorities set out by the High Representative — the establishment of the Anti-Crime and Corruption Unit; the overhaul of the country's judicial system at all levels; the launching of the European Union Police Mission; the operationalization of the State-level Civil Service Agency; and the establishment of coalition governments at the State, entity and cantonal levels all are encouraging factors on the path to reconstruction, ethnic harmony and stability in Bosnia and Herzegovina.

In the area of justice and the rule of law, the High Representative should be encouraged to continue his offensive against those networks that fund and support key International Criminal Tribunal for the Former Yugoslavia indictees, including Radovan Karadzic, and to establish a system for domestic prosecution of war

crimes, pursuant to the request made by the Peace Implementation Council.

In this context, my delegation supports the creation by the Council of a special War Crimes Chamber within the Court of Bosnia and Herzegovina. There can be no doubt that the speedy implementation of this project will be one of the pillars of the reconstruction of the country and of its integration into the international community.

Key criteria enable us objectively to evaluate the social, political and economic progress achieved. Let me mention in this connection the drawing down of, by the end of 2003, of the Reconstruction and Return Task Force, due to the high level of property law implementation, greater visibility and improved assurances in connection with the return of refugees and displaced persons; the closing of the Media Development Department, following the successful completion of its mandate; the entry into force of the Criminal Procedure Code, as a turning point in the reform of criminal justice; the suppression of support networks for war crimes indictees, thanks to close cooperation with the European Union and the United States of America; increased growth in Bosnia and Herzegovina, on the basis of reforms laid down to promote employment and consolidate economic and administrative infrastructures; and the enhancement of regional cooperation for security and justice. However, that progress must not mask the difficulties encountered by the High Representative in his efforts to restore the situation.

We are particularly concerned at the replacement — for political reasons — of members of the administrative boards of various public entities and the appointment of officials based on political or ethnic criteria; at the constitutional dysfunction of the Council of Ministers and the meagre resources at its disposal; at the swift decline in international financial assistance at a time when refugees and displaced persons are returning in large numbers; and, finally, at the slowness in the pace of reform. All those challenges can be addressed thanks to the international community's support and to the dynamism of the Office of the High Representative.

Seven years after the end of the war, Bosnians must assume the bulk of the responsibilities in the country's restoration and revitalization. That being done, the Council must lend its full support to the High Representative with a view to the swift implementation of the six essential tasks set forth in the Office's implementation plan, which was approved by the Steering Board of the Peace Implementation Council.

In conclusion, my delegation reiterates its congratulations and its words of encouragement to the High Representative and to the President of the International Criminal Tribunal for the Former Yugoslavia on the significant progress achieved, under their far-sighted and effective leadership, in implementing the Dayton Accords in Bosnia and Herzegovina.

Mr. Akram (Pakistan): I welcome Lord Ashdown and thank him for his uplifting briefing. We also thank Judge Meron, President of the International Criminal Tribunal for the Former Yugoslavia, for his presentation to the Council today.

In the early part of the past decade, Bosnia and Herzegovina became a victim of a brutal war which was synonymous with "ethnic cleansing", religious hatred and untold brutality against innocent civilians — men, women and children. It took the concerted efforts of the international community, over several years, to bring that unfortunate war to an end. Pakistan played a role as an active member of the Security Council at the time — and as one of the largest contributors to the United Nations Protection Force in Bosnia later — in the restoration of peace in Bosnia and Herzegovina.

Today, almost a decade after that tragic war, Bosnia has become a more peaceful and stable country — a far cry from the killing fields of the past decade. That is in considerable measure, a testament to the sustained commitment of the international community in implementing the Dayton Accords, despite the difficulties that have been encountered. But, largely, the credit for the progress made goes to the resilient and resourceful people of Bosnia and Herzegovina, who have demonstrated a determination to rebuild a nation which was torn apart by hate, power politics and international intrigue.

We appreciate the efforts of Lord Ashdown and his staff in promoting the rule of law, in facilitating the return of refugees, in supporting efforts for reconstruction and recovery, and in restructuring the administrative structures of the country and building its capacity for production and employment. All that has contributed significantly to moving Bosnia and

Herzegovina further along the path towards peace and national integration.

We also support the ongoing reform processes, including the domestic prosecution of war crimes, the legal reforms, the defence reforms aimed at Bosnia's participation in wider international security structures, and the economic reforms necessary to turn around the country's once-vibrant economy.

While we support the establishment of a domestic Chamber to try war crimes cases, that should not imply that the International Criminal Tribunal for the Former Yugoslavia is no longer responsible for prosecuting high-profile criminals like Radovan Karadzic, who remains at large. The Tribunal must continue its task of trying the major war criminals, leaving the Bosnian special Chamber to deal with the lesser cases.

I believe Lord Ashdown would agree that as yet all is not completely well in Bosnia and Herzegovina. He would also agree that the restoration of Bosnia and Herzegovina's pre-war tapestry of coexistence remains an aspiration. Without genuine reconciliation among the country's various communities, durable peace cannot be fully assured. The success achieved much earlier in Brcko unfortunately could not be replicated at Mostar. There are also other political problems at the national and entity levels, some of which are referred to in Lord Ashdown's report. Moreover, the peace process remains under threat from extreme nationalists, war criminals and organized crime networks. Above all, we have not reached a point where the security of Bosnia and Herzegovina can be guaranteed without the presence of foreign forces.

Pakistan recognizes that the future of Bosnia and Herzegovina is in Europe, and that the European Union must have a lead role in its political and socio-economic recovery. But it must not be forgotten that Bosnia and Herzegovina is not only European; it has a unique identity and history — an old history and a more tragic recent history. The United Nations, therefore, must also continue to have a role in assisting in the process of restoring peace and prosperity in Bosnia and Herzegovina. We should thus promote possibilities for the United Nations — and indeed for other organizations, like the Organization of the Islamic Conference — to work in concert with the European Union and with other European entities to realize their common objectives in Bosnia and Herzegovina.

During the war in Bosnia and Herzegovina, Pakistan extended unequivocal moral, political and financial support to the suffering people of that bold nation. When they were oppressed under unfair sanctions, we acted in the defence of international morality and the principles of the United Nations Charter. Our support was and continues to be manifested in our conviction that no nation must be victimized because it is weak and vulnerable. No people should be brutalized for their ethno-religious origins, and no people should be denied their inherent right to self-determination and the right to wage a legitimate struggle for freedom.

Sir Emyr Jones Parry (United Kingdom): I am particularly grateful to the briefings we have just heard from Lord Ashdown and Judge Meron.

It was good to have such an upbeat presentation setting the context for describing the positive progress which has been achieved. I will now elaborate on some particular United Kingdom points, while identifying myself very closely with the statement to be issued later by the President of the European Union.

The United Kingdom shares the objectives which have been set out by the High Representative. We welcome the priorities and the means of expediting progress, particularly the Commissions and the results they are achieving. The reforms now being produced need to be both legislated and implemented. If Bosnians themselves can show leadership to that end, so much the better.

I was struck by what Lord Ashdown said about partnership. Bosnia and Herzegovina has for too long and recently, been caught in a dependency culture. There is a tension between the strong leadership, which is necessary from the Office of the High Representative in order to make progress, and the risk that such leadership itself increases the dependency.

This morning it sounds as though the authorities of Bosnia and Herzegovina are assuming more ownership and greater control of their own affairs and that is good news. The path to Euro-Atlantic integration is obviously having a crucial impact on that achievement. What I mean, without the jargon, is that the prospect of membership of the European Union and of NATO is actually changing the facts on the ground. Clearly, we need less government, fewer prime ministers and, perhaps specifically, defence sector reform moving to central one-government control and

unitary command of one set of armed forces. Some years ago that would have been unimaginable. The prospect now looks more possible and is certainly highly desirable.

Cooperation in Bosnia and Herzegovina within the State, and then between Bosnia and Herzegovina and its neighbours is crucial. I very much hope that the European Union dimension will accelerate that. Meanwhile, cooperation on a number of particular areas deserves priority.

I especially want to emphasize what is being done in the area of criminality. The fact that the internal market in organized crime in the Balkans is more efficient than any other internal market is actually a remaining indictment, and thus I welcome the signs of progress Lord Ashdown has been able to allude to. But let us be clear that much more progress needs to be done in the entire region.

I was struck by a passing reference that the European Union Police Mission is now taking on the role of monitoring the local police from the International Police Task Force (IPTF). A wider application is demonstrated here which is that when the United Nations, or a multinational body takes on policing or military responsibilities, and we get to a level of maturity so that the regional organization can take it over, that is seen as a highly desirable trend. There are encouraging signs of that, not just in the Balkans, but in Africa. The more one can sub-contract out to others — actually getting on with the job that needs to be done — the better.

Lord Ashdown spoke of the rule of law and Judge Meron developed what is being done in that area. This is vital to achieving the correct sort of end-state for Bosnia and Herzegovina. Both Lord Ashdown and Judge Meron have illustrated this morning the importance of the work on the rule of law — the transition to justice — which the Security Council embarked on here last month.

The lesson for the Balkans and for all sorts of areas emerging from conflict is that justice for victims — bringing to justice the perpetrators of war crimes and then establishing a body of law, both civilian, criminal and, I would add, financial and economic — is crucial to taking a State through the process. What we heard this morning from the High Representative is an object lesson in how we need to bring justice to victims if the organs of a State are to function and if the State is to end up as the sort of democratic free nation that this United Nations stands for.

The reasons for pursuing war criminals are not only evident, they are shared fully by this Council. The logic, specifically of Security Council resolution 1503 (2003), which we passed in late August, was to stress the importance, among other things, of bringing to justice those indictees still out there who have, as Lord Ashdown described, "a baleful influence". My adjectives would include "pernicious", among others. I think the impact remains bad, but more importantly justice demands that these people actually be taken to The Hague.

Security Council resolution 1503 (2003) also called upon the donor community to support the work of the new Special Chamber. The United Kingdom has committed some 600,000 euros to that cause, but it is right that we should support it because there is a balance now between what can be done nationally, within the State, and what should properly be done by the International Tribunal for the former Yugoslavia (ICTY).

The transition to a greater responsibility within Bosnia and Herzegovina and by its people is right. It is not so much as to permit the closure of the ICTY procedures, desirable though that is, but it is to permit reconciliation and justice for the victims of war crimes to actually happen within the State of Bosnia and Herzegovina. It is a sign of maturity, and I hope in passing that it is a sign of increased efficiency as well, that the application of justice would be done more efficiently than has been the case before with some of the Tribunals.

I conclude by pointing out the obvious, that the test of the success of Lord Ashdown and Judge Meron and the institutions which they represent is that we should see far fewer reports in the future, and, preferably, that very soon we should not be having a report at all — that these two gentlemen should succeed in their goal of making their jobs no longer necessary. The United Kingdom wishes them every success in their endeavours.

Mr. Arias (Spain) *(spoke in Spanish)*: Spain would like to thank the High Representative for his outstanding work in Bosnia and Herzegovina, and particularly for his comprehensive briefing to the Security Council. We would also like to thank Judge

Meron for his work at the helm of the International Tribunal for the former Yugoslavia (ICTY) and for his very interesting briefing.

The situation in Bosnia and Herzegovina requires, as the High Representative just mentioned, two different kinds of measures in order to move forward. One is to reform the State, in order to strengthen institutions and ensure that the rule of law is firmly established, and the other is to restructure the economy to remove obstacles to development and the generation of jobs. No one is unaware that the ultimate goal of those measures is Bosnia and Herzegovina's attainment of political and economic levels commensurate with those of other European countries.

With regard to the first set of measures, my country is following with particular attention the restructuring of the armed forces and the Ministry of Defence. In that connection, I would like to ask Lord Ashdown whether he believes that the recent reforms described in his report, if strengthened, will make it possible for Bosnia and Herzegovina to become part of NATO's Partnership for Peace in the near future. In addition, in connection with the outcome of the meeting of Ministers of Defence of the European Union, Spain would like to hear the views of the High Representative regarding what would be the best conditions on the ground in the event that the European Union replaces NATO's mission in Bosnia and Herzegovina.

Lastly, I have a brief comment regarding justice. There can be no doubt that the only way to strengthen peace is to render justice. We commend the work done by the International Criminal Tribunal for the Former Yugoslavia, as well as the establishment of a War Crimes Chamber.

Mr. Pujalte (Mexico) (*spoke in Spanish*): As other delegations have done, my delegation thanks Lord Paddy Ashdown, High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, and Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia, for their presence in the Chamber and for the information they have given us. We also thank them for their tireless spirit of service and their commitment to their work.

Next month, November, will mark eight years since the signing of the Dayton Peace Accords. As the High Representative's report made available to the Security Council today demonstrates, there can be no doubt that since their signing in 1995 Bosnia and Herzegovina has made progress in normalizing daily life.

Mexico has noted with interest the contents of the report. Our attention has been drawn in particular to the progress made with regard to the administration of justice, to corruption and to combating organized crime. Mexico trusts that the country's police services will eventually be able to assume the policing functions now provided by the European Union. Similarly, we emphasize the importance of the initiatives under way to strengthen the justice system, which is the key to building up the rule of law in Bosnia and Herzegovina.

In that connection, my delegation welcomes the valuable information provided by Lord Ashdown and Judge Meron with regard to the establishment of a special War Crimes Chamber in Bosnia and Herzegovina's State Court to address serious violations of international humanitarian law. The details presented provide further information about the arrangements proposed to establish such a Chamber. My delegation has lent its support for the completion strategy proposed by the International Criminal Tribunal for the Former Yugoslavia, and in particular the idea of transferring cases relating to low- and mid-level accused persons to the competent national jurisdictions, with a view to ensuring that the Tribunal can attain its goal of completing its judicial activities at first instance by 2008. What is proposed therefore augurs well for the proper implementation of the completion strategy.

Turning to the political sphere, we are pleased that, eight months after elections were held, the process of forming a Government was finally concluded in June in the only remaining canton where that was yet to be accomplished.

We also take note of the efforts made in the economic area to promote growth in trade and employment. We were particularly struck by the participation of civil society in the debate on economic reform and by civil society's monitoring role in implementing that reform.

Over 1 million refugees and internally displaced persons have returned to their homes in Bosnia and Herzegovina. Approximately 40 per cent of them are members of minority groups. However, 500,000 persons have yet to return home. Those figures prompt

us to mention the suffering caused by armed conflict and the courage that gives rise to hope. They also prompt us to think about the infinite possibilities that open up when political will and economic resources are brought together. The international community's support, both political and economic, has been essential to the peace process in Bosnia and Herzegovina. It is important that that support continue until outstanding issues have been addressed.

The statistics compiled by Operation Harvest this year are also encouraging. Although there was a decline in the collection of small arms over 2002, the amount of ammunition, mines and hand grenades turned over to the Stabilization Force has increased.

As has been pointed out, the road travelled has not been easy, and we will still have to overcome various types of setbacks. In particular, we believe that it will be necessary to ensure that there is no impunity, if the process of reconciliation in Bosnia and Herzegovina's society is to be completed. Specific steps must be taken to arrest, try and punish those responsible for war crimes.

Finally, Mexico trusts that the people of Bosnia and Herzegovina will soon become solely responsible for their future.

Mr. Gatilov (Russian Federation) (*spoke in Russian*): We are grateful to Lord Ashdown, High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, for his comprehensive report to the Security Council and for his detailed briefing on the situation in Bosnia and Herzegovina. We also welcome the participation of Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia, in today's meeting, and we are grateful to him for his statement.

Russia notes with satisfaction the substantial progress achieved in the implementation of the Dayton Peace Agreement and in the establishment and strengthening of statehood in Bosnia and Herzegovina. We believe that the situation in that country is reaching the level at which greater authority must be gradually transferred to its legally elected bodies, which must bear responsibility for their country and peoples. In that connection, the strengthening of mutual understanding and trust among the peoples of Bosnia and Herzegovina and the achievement of consensus on all matters relating to state-building become all the more important.

We support the activities of High Representative Lord Ashdown in the implementation of the approved programme of the Peace Implementation Council (PIC) Steering Board in the economic and social spheres and in strengthening the primacy of law and State authority as a whole. We proceed on the basis of the premise that the implementation of these priorities will be undertaken in strict observance of the Dayton Agreement and the Constitution of Bosnia and Herzegovina and on the basis of a consensus among all Bosnian parties.

We welcome the pursuit of dialogue among the Bosnian parties on military reform and we note the progress achieved towards putting the armed forces of the entities under effective civilian control with a view to the eventual establishment of a unified command structure.

Bearing in mind the fragility of the overall political situation in Bosnia and Herzegovina, we believe it appropriate to continue international monitoring of the situation with regard to ensuring public safety in the country and of the activities of local police forces. In this connection, we welcome the work, which began on 1 January 2003, of the European Union Police Mission. We strongly believe that the Security Council, as the major organ responsible for the maintenance of international peace and security, will continue to receive regular reports on the conduct of the Police Mission in Bosnia and Herzegovina.

We support the further elaboration of the concept of the establishment, within the framework of the Bosnia and Herzegovina State Court, of a special chamber to investigate war crimes. We welcome the steps taken by the High Representative to implement the relevant decisions of the PIC Steering Board and trust that the Security Council shall continue carefully to follow the efforts made to that end. In this regard, we expect the Council to receive information on a regular basis from Lord Ashdown and the President of the International Criminal Tribunal for the Former Yugoslavia, Judge Meron, on the progress of work towards forming the special chamber.

The information submitted today allows us to be optimistic that the deadlines set for late 2004 or early 2005 for launching the chamber will be met. We hope that all aspects of the preparatory work will be given

due attention, beginning with the reconstruction of the court's building and ending with the revision and adaptation of local legislation. We regard the transfer of cases from the International Criminal Tribunal to the emerging Bosnian court as a major element of the successful implementation of the strategy to fulfil the Tribunal's mandate. We believe that a consideration of similar cases should also involve the competent legal bodies of other Balkan States.

Russia, as one of the guarantors of the Dayton Agreement, will continue to lend all necessary assistance in the political, economic and military reforms under way in Bosnia and Herzegovina. In this connection, we proceed from the premise that the principal, fundamental provisions of Dayton will be respected by all sides.

Mr. Zhang Yishan (China) (*spoke in Chinese*): At the outset, I wish to thank President Meron and Lord Ashdown for their detailed briefings. I commend Lord Ashdown for his efforts to facilitate the implementation of the Dayton Peace Agreement.

The Chinese delegation has been closely following the situation in Bosnia and Herzegovina. We were pleased to see that, as a result of the unremitting efforts of the Government and the people of Bosnia and Herzegovina, the country is moving towards stability. We note the preliminary results of reconstruction and the further harmonization of various ethnic groups. We hope that the parties concerned in Bosnia and Herzegovina will pursue their efforts to consolidate the peace process in a joint commitment to the lasting peace and development of the country. This is in the interests not only of the members of Bosnia's various groups, but also of the peace and stability of the region as a whole.

China has always supported the peace process in Bosnia and Herzegovina. We have contributed civilian and police personnel to the United Nations Mission in Bosnia and Herzegovina. China is willing to join the rest of the international community in pursuing efforts to help that country to embark on the path of autonomous development as soon as possible.

My delegation supports the various efforts undertaken by the International Criminal Tribunal for the Former Yugoslavia to further improve the efficiency of its proceedings. We are particularly grateful to President Meron for his work to that end. We note that the State Court, the Prosecutor's Office and the Special Department of Bosnia and Herzegovina are preparing to establish a special chamber to try war crimes. We hope that the establishment of the relevant organs will further the implementation of the Tribunal's completion strategy and promote the achievement of justice and national reconciliation.

Mr. Tafrov (Bulgaria) (*spoke in French*): As a country associated with the European Union, Bulgaria associates itself with the statement to be made shortly by the Permanent Representative of Italy on behalf of the Union.

I believe that Bulgaria, as a Balkan country, has a special role to play in this debate. I shall make a few preliminary comments, beginning with my thanks to President Meron for his briefing and, especially, to Lord Ashdown, not only for his extremely interesting analysis, but also for his decidedly vigourous activities on the ground. Having heard him now for the second time in the Security Council, I believe that Bosnia and Herzegovina is very lucky to have such a person. He has political, military and human experience; he has the ideal profile to accomplish his task of ultimately doing away with his own position and work, as Ambassador Jones Parry said. I wish him every success in that task.

I should like to begin at the point at which I had wanted to conclude, because I believe that the approach under consideration is very important. Lord Ashdown said earlier that the European and Euro-Atlantic prospects are like a powerful magnet for Bosnia and Herzegovina. I can confirm that on the basis of the experience of my own country, Bulgaria. Bulgaria's transition to a market economy and democracy — a transition now nearing completion — would not have been possible without this powerful magnet. One thing is clear: The extremely arduous reforms will go faster and truly succeed if Bosnia's European and Euro-Atlantic prospects open up. The more these prospects are open, the easier it will be for the High Representative and for the Bosnians themselves.

Developments in Bulgaria, which is a neighbouring country, should reassure the Bosnians. Next year Bulgaria will enter the Atlantic Alliance, and in 2007 it will become a member of the European Union. Such developments are thus possible, although there is clearly a great deal of work to be done, as we have heard.

We should not underestimate the success that has been achieved thus far. We should recognize the fact that substantial progress has been made, despite the problems of organized crime, the parochialism that sometimes goes too far and the lack of focus on Bosnia and Herzegovina on the part of the international community, which has been distracted by more pressing issues. I shall not go into detail in that respect, because Lord Ashdown has been very eloquent on the matter.

I would like to say that the reform of the justice system is crucial. Speeding up that process will have an impact not just on political life in Bosnia and Herzegovina but also on the economy. No economy can function without the rule of law and a justice system that can arbitrate various trade disputes.

The four ad hoc commissions that have been set up in Bosnia and Herzegovina are doing very important work. I would like to underline the importance of the defence sector, which functions as a cement for the identity of the State of Bosnia and Herzegovina. I believe that this will be a true test of the ability of Bosnia and Herzegovina to establish a viable State. In this context, the accession of Bosnia and Herzegovina to NATO's Partnership for Peace will be extremely important and could speed up this process.

Bulgaria is an enthusiastic supporter of the establishment of a special War Crimes Chamber within the State Court of Bosnia and Herzegovina, pursuant to resolution 1503 (2003), which is endorsed by all of the members of the Council. Over and above considerations of the effectiveness of the work of the Tribunal itself, bringing justice to the Bosnians themselves will certainly have a positive psychological impact and can only speed up the process of national reconciliation. Clearly this process will never be complete as long as war criminals are not brought to justice at The Hague.

In conclusion, I would like to say that Bulgaria will continue to support all efforts, using all its political, diplomatic and material resources, in support of the reforms in Bosnia and Herzegovina, which is a neighbouring State and a friend. We are currently contributing to the European Union police mission. The Stabilization Force contains a Bulgarian contingent, and the Bulgarian presidency of the Organization for Security and Cooperation in Europe, which will begin on 1 January 2004, will accord priority to support for Bosnia and Herzegovina, in particular in the judicial field.

Mr. Gaspar Martins (Angola): I would like to start by welcoming both Lord Ashdown and Judge Meron and thanking both of them for the very important and significant briefings that they gave us this morning on a situation that is evolving well.

We welcome the commitment of the international community, which has been a determining factor in the remarkable progress set out in the report before us. Thanks to the international community, the people of Bosnia and Herzegovina have a unique, historic opportunity to advance towards a leading group of nations whose standard and quality of life is relatively high.

I am quite sure — and we all agree on this — that the two-pronged approach outlined in the report presented to the Council by Lord Ashdown is the appropriate strategy to lead the people of Bosnia and Herzegovina to an era of sustained freedom, well-being and economic reform in a State based on the rule of law. Indeed, the road map would lead to the attainment by the people of Bosnia and Herzegovina of their fundamental freedoms — freedom from fear and from unjust persecution; freedom to fully develop their potential; freedom to belong to a society of people equal under the law and enjoying equal opportunities; freedom to respect each other's differences as the basis of rich social interaction; freedom of all nations of the Federation to understand that unity of purpose and effort is praiseworthy; and freedom to become an equal partner in the community of nations.

It is my delegation's view that the efforts deployed by the international community and by the people of Bosnia and Herzegovina should be relentlessly pursued until the medium- and long-term objectives are fully met — that is, the creation of a modern society in Bosnia and Herzegovina. The investment by the international community and the efforts of the people of Bosnia and Herzegovina must be sustained, as the final result will surely be rewarding.

I would now like to turn to the question of judicial reform. In its resolution 1503 (2003) adopted in August, the Security Council reiterated the planned strategy for the International Criminal Tribunal for the former Yugoslavia, which called for all investigations to be completed by the end of 2004, all trial at first

instance by the end of 2008, and all the activities of the court by the end of 2010.

As recognized on different occasions by the Security Council, the deferral of cases involving low-level indictees to competent national jurisdictions is likely to be the best course of action, allowing the ICTY to achieve its objectives and focus on the trials of those who bear greater responsibility for crimes under the Tribunal's jurisdiction. Deferred to domestic courts, the trial of low-level cases would help enhance rebuilding of the shattered national identities of the people of the region and strengthen their awareness of law enforcement ownership.

This meeting offers a good opportunity to revisit the challenges faced by the ICTY, as well as the international community's readiness to contribute, as appropriate, to the strengthening of national and local judicial systems of the States of the former Yugoslavia, in order to facilitate the implementation of the agreed strategy for the International Criminal Court.

To conclude, we strongly encourage the High Representative to maintain the consistent policies outlined in the report. Strengthening of the rule of law, building local, national and federal institutions, effective judicial and law enforcement systems, a modern civil administration, economic reforms promoting economic freedom and development are, in my delegation's view, and I believe in the view of all delegations, the essential elements for building a multi-ethnic and tolerant community with solid and functioning democratic institutions.

The relevant agencies of the United Nations, the European Union and the international community have joined in the coordination of efforts towards that endeavour. It is my delegation's hope and expectation that Bosnia and Herzegovina will stand as another success story of post-conflict reconstruction.

Mr. Belinga-Eboutou (Cameroon) (*spoke in French*): I wish to thank you and congratulate you, Sir, for having organized this meeting on Bosnia and Herzegovina. It comes on the heels of the rich, long and intense debate we had on 24 and 30 September, on justice and the rule of law and the role of the United Nations.

Today's debate provides us with the opportunity to reflect — deeply, I hope — on the efforts of the international community to establish normality in Bosnia and Herzegovina. We were pleased to learn from Lord Paddy Ashdown this morning that Bosnia and Herzegovina is the first Balkan country today to have met the prerequisites of a state of law — the separation of powers and judicial independence, in particular. We welcome that.

In that connection, I would like to express my delegation's full appreciation to Lord Ashdown, High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina. He has done outstanding work. I also wish to express appreciation for the work done by Judge Theodor Meron, President of the ICTY, and to thank him for his detailed briefing.

After having heard the statements made by eminent members, I will restrict myself to a few comments. The report submitted by Lord Ashdown highlights significant and praiseworthy progress that has been made in a relatively short period of time — promoting jobs, building a viable economic and administrative infrastructure and, most important, the establishment of a State of law in Bosnia and Herzegovina. Those achievements contribute decisively to the improvement of the political panorama and to rationalizing the security and defence systems of the country, as well as to normalizing its relations with its neighbours. For all those very meritorious reasons, my delegation wishes to reiterate once again its confidence in the activities of the High Representative.

It goes without saying that, in order to be lasting and effective, such activities must be based on a solid legal foundation, without which all our efforts will remain fragile.

My delegation attaches great importance to the justice aspect. We have followed, with great interest, the observations made by Judge Meron and the comments contained in the report submitted by Lord Ashdown on the subject. The Completion Strategy by 2010, defined by the ICTY Judge in June 2002, and the possibility of sending some cases before national jurisdictions, which the Council supported, is relevant now more than ever.

Success of the de-localization process, which will require acceleration of various processes, depends, in my delegation's view, on three conditions that are essential to us. The first is the simultaneous commitment and sustained efforts of the Council, the international community and all parties concerned. The

second is the efficient implementation by the Tribunal of the strategy defined to ensure such completion. The last is the harmonious functioning of the special War Crimes Chambers.

We are convinced that reforming the judicial system, particularly the establishment of the special War Crimes Chambers, responsible, among other things, for supplementing the work of the ICTY, will make it possible to contribute solutions for concerns related to the Completion Strategy.

To that end, my delegation welcomes certain initiatives: the establishment within the Bosnia and Herzegovina Tribunal of a criminal division, the War Crimes Chambers and a War Crimes Department in the Prosecutor's Office; the amendment of the law setting the course of judicial training; the elaboration of the Criminal Code in Bosnia and Herzegovina on 24 January 2003 and its entry into force on 1 March 2003; the entry into service of new judges of the Prosecutors Office of Bosnia and Herzegovina; the recruitment of special prosecutors for the ICTY; and the special division in the Office of the Prosecutor for Bosnia and Herzegovina of judges and international prosecutors; and the establishment of the Anti-Crime and Corruption Unit. Those are important factors that my delegation welcomes. We also appreciate the cooperation that the judicial system of Bosnia and Herzegovina enjoys with numerous institutions.

Cameroon considers that the criteria and the terms of cooperation between the International Criminal Tribunal for the former Yugoslavia (ICTY) and the special War Crimes Chamber must be clearly defined. While the foundation of this delocalization process has been determined, we nonetheless would be pleased to increasingly get more information concerning this. We also would like to know what strategies have been envisaged to reconcile the requirements of justice and those of national reconciliation, particularly with regards to a domestic tribunal.

By way of conclusion, my delegation wishes to reiterate its support of the request made by the High Representative of the Secretary-General and by the President of the ICTY that the necessary significant resources be allocated with a view to enabling efficient implementation of the judicial delocalization process and the reconstruction of Bosnia and Herzegovina.

The President: I shall now make a statement in my capacity as the representative of the United States.

I, too, want to thank Lord Ashdown and Judge Meron for joining us today and for their dedication and commitment to peace in Bosnia and Herzegovina. The capture and prosecution of persons indicted for war crimes has long been a priority for the United States and the Security Council. The emergence of a stable and prosperous Bosnia and Herzegovina will not be possible until indicted war criminals are brought to justice, especially Radovan Karadzić and Ratko Mladić. These and other indicted war criminals should know that they cannot wait out the international community.

It should be no mystery to the people of Republika Srpska that more than half of them live at or below the poverty line. It is because investors will not do business where the law is not upheld and because Karadzić's vast criminal support network continues to steal resources that local Governments need to pay for pensions, health care and education.

The parties made a solemn commitment at Dayton eight years ago to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) and turn over indictees. The international community has kept its Dayton commitments, including the creation of the Republica Srpska. The time has come for the Republica Srpska to do its part and comply with all the requirements of Dayton and its greater obligation as part of the Euro-Atlantic community.

While it is the ICTY that will try Karadzić, Mladić and other senior officials most responsible for crimes within the ICTY's jurisdiction, it is important that justice for other cases be transferred to a competent national jurisdiction in Bosnia and Herzegovina. We commend the efforts of the Office of the High Representative, the international community and the Government of Bosnia and Herzegovina to create domestic capacity by establishing a War Crimes Chamber within the State Court of Bosnia and Herzegovina. The project, part of a regional effort, is essential to the strengthening of the rule of law and will also support the ICTY's completion strategy. We strongly urge the Office of the High Representative, the ICTY and the local authorities to refine and finalize the plan for — and begin operation of — a War Crimes Chamber without delay. Resolution 1503 (2003)

encourages Member States to support the establishment of this War Crimes Chamber.

For its part, the United States is prepared to lend its support by providing expert assistance and up to one-third of the cost. We encourage other donors and the Bosnia and Herzegovina authorities to also help shoulder the financial and technical burdens.

We applaud High Representative Ashdown's efforts to target those who provide financial and logistical support to persons indicted for war crimes. The United States has instituted its own mechanism to ban the travel, freeze the assets and prohibit the financial activities of those who help persons indicted for war crimes to evade justice. Steps such as the European Union travel ban are also effective at putting pressure on these individuals, and the United States enthusiastically welcomes them. In keeping with the recently passed resolution 1503 (2003), we strongly urge all States to impose similar measures to freeze the assets and restrict the travel of fugitive indictees, as well as of those individuals or groups that help them evade justice.

Lord Ashdown also mentioned the tremendous progress made by the Defence Reform Commission, the Indirect Tax Policy Commission and the Intelligence Commission. The United States strongly supports the work of all three commissions and we call on the relevant institutions in Bosnia and Herzegovina to approve and implement the draft legislation these commissions have proposed without delay.

We also urge the relevant authorities in Bosnia and Herzegovina to continue and accelerate economic reforms, particularly in privatization, the restructuring of domestic debt and the reduction of the burden of the Government on the economy. The United States stands ready to provide technical and financial assistance to help Bosnia and Herzegovina implement these reforms, and we urge other Member States to consider how they, too, can contribute, and to do so.

I now resume my function as President.

I give the floor to the representative of Bosnia and Herzegovina.

Mr. Kusljugić (Bosnia and Herzegovina): Allow me at the outset, Mr. President, to extend my sincere congratulations on your taking over the Presidency and to wish you every success in presiding over the Council this month. I would also like to thank you for the opportunity to comment on the briefings by the High Representative and the President of the International Criminal Tribunal for the former Yugoslavia (ICTY), and to share with the distinguished Members of the Security Council some recent views of my Government regarding the situation in Bosnia and Herzegovina and the role of the international community in its post-war recovery.

I also want to thank Lord Ashdown and Judge Meron for their comprehensive briefings, as well as my distinguished colleagues for their comments and remarks.

It has been a year since the first self-organized elections took place in Bosnia and Herzegovina and a new Government took office. It so happened that the beginning of the election process coincided with the arrival of the new High Representative for Bosnia and Herzegovina, Lord Paddy Ashdown. Even though it might seem premature to make an assessment of the achievements of the newly elected Bosnia and Herzegovina authorities and their interaction with the international community as personified by Lord Ashdown, some positive — and some negative — trends have become evident.

The past year, as every year before it, has been marked by slow but steady progress in post-war recovery and transition. What makes this year distinct from those before it is the High Representative's very agile approach to the tasks placed before him. His platform, "jobs and justice" through reforms, so well presented and so largely supported by this forum last year, and the Office of the High Representative's mission implementation plan proved to be well thought-out strategies.

Not unlike his predecessors, Lord Ashdown started off by imposing laws. Later on, as his mandate progressed, the number of imposed laws decreased as he succeeded in involving entity and State parliaments in advancing legal reforms in various fields of legislation.

The efforts of the High Representative were concentrated in several major areas; his strategy clearly focused on bringing Bosnia and Herzegovina closer to Euro-Atlantic integration by fulfilling the conditions set forth by the North Atlantic Treaty Organization (NATO) Partnership for Peace and the feasibility study

for Stabilization and Association Agreement with the European Union.

In the economic arena, an impressive package of 50 laws and regulations has been passed in order to give a boost to private initiative and to create conditions for direct foreign investments. Progress has been made in the reform of customs, tax and revenue systems, a State law on civil servants was passed, the reorganization of the army structure brought Bosnia and Herzegovina a step closer to the NATO Partnership for Peace, the foundations for the State intelligence service were laid and the State Court of Bosnia and Herzegovina became operational.

However impressive the results, considering the time frame, several problem areas remain constant in the way they are dealt with by the international community and its High Representatives.

First, the fact remains that in the past three years the number of publicly indicted war criminals who remain at large has been reduced from 20 to 17, and the two most infamous fugitives, Radovan Karadzic and Ratko Mladic, are still, eight years after being indicted, as elusive as they have ever been. We consider that responsibility for this lies both with the international community and with the Bosnia and Herzegovina authorities. It has been repeated many times that there can be no reconciliation in Bosnia and Herzegovina until all indicted war criminals are brought to justice.

A positive step in cooperation with the International Criminal Tribunal was made last year by establishing a special Chamber for war crimes within the State Court, though this still has to be funded. It is our hope that the contributing nations will be generous at the forthcoming donor conference in The Hague later this month.

Secondly, the return of refugees and displaced persons shown by statistical data could easily qualify for the greatest success of the international community in the post-war Bosnia and Herzegovina. With the addition of data on property return, the picture falls little short of perfect. However, individual returns in some areas of Republika Srpska, especially the Srebrenica and Drina river regions, and some regions in the Federation of Bosnia and Herzegovina, turned out to be unsustainable. Generally, there should be more economic support for the returnees to start anew and get on with their lives.

Furthermore, the paramount importance of the privatization process was largely underestimated. Even though the entire concept of privatization was conceived by the international community and put into practice through direct participation of the Office of the High Representative and other international organizations and their experts, the results six years down the line are far from acceptable, especially when it comes to large-scale privatization of State-owned enterprises and the so-called strategic sector.

The current High Representative has given the privatization process a new push by improving the privatization legal framework, but this has yet to deliver results. Meanwhile, the burden of State-owned enterprises, most of them barely operating but still employing a significant workforce, remains on the shoulders of the local authorities. Social unrest and protests, which we witness on the streets of Bosnia and Herzegovina on an almost daily basis, are partly due to the inability of the international experts to find a viable model for privatization of State-owned enterprises and generate the interest of foreign investors in engaging their capital in the Bosnian economy and thus create new job opportunities for the unemployed workers, who, statistics indicate, amount to 40 per cent of the entire workforce.

Last but not least, I come to the impact of the international community on the public information sector. Far from being completed, the task of creating an objective and unbiased public information service was moved down the priority list, and the aid and support given to the independent media has all but dried up.

I am addressing the Council today as Permanent Representative of a State of Bosnia and Herzegovina that is no longer the focus of attention of the international community as a crisis area. Rather, it has become a typical State in transition that actively participates in stabilization processes in the region and throughout the world. The authorities in Bosnia and Herzegovina remain committed to reforms, in order to create conditions for overcoming the consequences of recent conflicts, and are devoted to respect for all the human rights of individual citizens and peoples, as well as their cultural, religious and other diversities.

In the process of Bosnia and Herzegovina's accession to European integration, discussions have just been completed with the European Commission,

within the framework of the feasibility study. Bosnia and Herzegovina is now entering the new phase with full confidence, convinced that the process what has been initiated will result in the fulfilment of conditions and membership in the European Union. This comes as a result of the decision of the Bosnia and Herzegovina authorities to respond to major challenges, such as combating organized crime and corruption; strengthening the State institutions; conducting legal system reforms; implementing structural reforms; and reducing the unemployment rate.

The issue of missing persons is particularly sensitive and difficult for Bosnia and Herzegovina. Additional efforts are required, with the assistance of the international community, to give the grieving families the opportunity to find out the whereabouts of their loved ones, what happened to them and where they were buried, to identify their remains and to lay them to rest with dignity. This would surely have a positive impact on the reconciliation process in Bosnia and Herzegovina.

At this moment the authorities in Bosnia and Herzegovina attach paramount importance to reforms and modernization of the educational system in Bosnia and Herzegovina. By recently signing the Bologna Protocol, Bosnia and Herzegovina made a firm commitment to build an educational system that meets European standards.

The duly elected authorities in Bosnia and Herzegovina are ready to take ownership, to bear more responsibility for the future of the country. The ultimate goal is for Bosnia and Herzegovina to be a member of NATO and of the European Union, Bosnia and Herzegovina with its destiny in the hands of its own citizens, on its road of no return towards European integration, and on that road with more power in the engine of its own institutions and less in the High Representative's tow truck.

Despite all individual efforts and billions of foreign aid poured into the country since the end of the war, Bosnia and Herzegovina is officially still one of the poorest European countries. The war, however devastating, cannot be solely blamed for that. The structure of the State, bequeathed by the Dayton Peace Accords, with multiple levels of executive and legislative power, resulting in more than 60 per cent of gross national product being spent on public expenditures, defies all the individual reforms and threatens to become economically unviable. Last year, the High Representative said that Dayton was the floor, not the ceiling, so it can be built on. However, even the floor needs to be statically sound.

Having realized that, the elected authorities in Bosnia and Herzegovina are ready to initiate the long and cumbersome negotiation process for constitutional reforms, with the ultimate goal clearly set out in the statement of His Excellency Dragan Čović, Chairman of the Presidency of Bosnia and Herzegovina, at the fifty-eighth session of the General Assembly, when he said that the Constitution of Bosnia and Herzegovina is "cut out to the measure of its peoples and to each and every citizen." (A/58/PV.15) We intend to achieve this by ourselves, through dialogue among all local stakeholders, and with the support of the international community.

The task before us may be difficult, but we have to accomplish it, and for one reason only: children who were spelling their first words when the first High Representative arrived in Bosnia and Herzegovina are coming of age now. They need a vision that goes beyond a six-month reporting period, beyond 2004, much further into the twenty-first century.

The President: I invite the representative of Italy to take a seat at the Council table and to make his statement.

Mr. Spatafora (Italy): I have the honour to speak on behalf of the European Union. The acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the associated countries Bulgaria, Romania and Turkey, and the European Free Trade Association country, member of the European Economic Area, Iceland, declare that they align themselves with this statement.

Since this is the first time I have taken the floor under your Presidency, allow me to congratulate you, Sir, on the assumption of your duties and to express my best wishes. I also extend my congratulations to the previous President, the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland, on his excellent job.

The European Union attaches great importance to the work undertaken by the High Representative, Lord Ashdown, whom we thank for his very comprehensive, enlightening and focused report. Lord Ashdown is

right: it is relatively easy to change the hardware, the institutions, but it is much more complicated to change the software, the people's attitude. That is the great challenge. We also thank President Meron for his briefing.

The European Union, as I was saying, fully supports the priorities that Lord Ashdown has outlined since his arrival in Sarajevo, promoting first of all the rule of law and then dismantling barriers to business growth and job creation through reforms. The European Union supports in particular the "commission approach" to reforms. That approach was recently launched by the High Representative and has led to the establishment of ad hoc commissions made up of local representatives and international chairmen, that cover key subjects such as indirect tax policy, defence and intelligence.

Important progress has recently been made in the reform process, particularly in the field of the judiciary and of defence. But much remains to be done to reinvigorate the economy and consolidate the central structures of the State. To that end, the responsibility lies in the hands of the local authorities, whose engagement in the reform process has to be clear and unambiguous. Their full cooperation with the entire international community is also crucial.

The European Union supports the unambiguous message of Security Council resolution 1503 (2003) to the countries and parties in the region on the need to improve and intensify cooperation with the International Criminal Tribunal for the former Yugoslavia, in particular efforts to bring Karadzic, Mladic and Gotovina to the Tribunal. In this respect, the European Union recalls the pledge made by the countries of the region at the European Union Western Balkans Summit at Thessaloniki in June 2003 to cooperate fully and unequivocally with the Tribunal.

The European Union, which has already adopted measures against cooperation between local networks and Tribunal indictees, reviews these measures on a regular basis. The European Union also supports the establishment of national special court chambers for war crimes and, in particular, the joint efforts of High Representative Lord Ashdown and of the Tribunal to establish a Special Chamber in the State court of Bosnia and Herzegovina.

The European Union is fully involved in the reform process in Bosnia and Herzegovina. The European perspective of the Western Balkans countries was reaffirmed by the European Union heads of State and Government at the Thessaloniki Summit last June. It represents extremely powerful leverage for Bosnian leaders to intensify their efforts towards introducing and implementing the necessary reforms. In that context, the European Commission will be presenting a feasibility study on the opening of negotiations for a stabilization and association agreement in the near future.

The European Union is also involved in security through its European Union Police Mission. The role played by the Police Mission and European Union Special Representative Lord Ashdown to coordinate the international community's efforts in the fight against organized crime and illegal trafficking remains crucial.

The President: I give the floor to Lord Ashdown.

Lord Ashdown: I am very conscious of the time. I have a few very brief comments I should like to make, but, on advice, I gather that it may be in order if I were to ask my colleague Bernard Fassier to respond to a few specific questions which were raised in the discussions.

The President: I give the floor to Mr. Fassier.

Mr. Fassier (*spoke in French*): I have two brief comments to clarify the nature of the support we need to carry out the project to create a Special War Crimes Chamber in Sarajevo.

The High Representative, Paddy Ashdown, and the President of the International Criminal Tribunal for the former Yugoslavia, Judge Meron, both have emphasized that this project cannot come to fruition without appropriate support from the international community.

In this connection, we have two requests to make. The first request pertains to the donors meeting that we will hold on 30 October at The Hague. The overall budget we need is 30 million euros over five years. In order to get the project started, it would be ideal if we could get two thirds of that amount, or 20 million euros. Nevertheless, we could begin to launch the project with 15 million euros. But if we go below 15 million euros, the project will not see the light of day. That is why we need the Council's support in order to convince the capitals of Member States to transform their unanimous political support into concrete

commitments, in terms of figures, at that conference, in order to reach the necessary threshold of 15 million or, if possible, 20 million euros.

My second remark is a request that relates to the importance of the many cases that will be dealt with in Sarajevo, coming either from the chambers — indeed, the agreements signed last February by Claude Jorda and myself arranged for the transfer of about 15 indicted individuals from the chambers — or from the Office of the Prosecutor, in the case of about 50 individuals now being examined.

Given these circumstances, we would like the Council to be able to convince the States Members of the United Nations to give, in due course, the Sarajevo War Crimes Chamber exactly the same support that they already providing to the International Criminal Tribunal for the former Yugoslavia with respect to the detention of individuals on trial and participation in witness protection programmes.

The President: I give the floor to Lord Ashdown.

Lord Ashdown: I hope that members of the Council will have found that helpful and useful. I am very conscious of the time and have no wish to keep representatives here, so I will try to make my comments extremely brief.

I am very grateful indeed for the support that we have received from the Council. It is a huge bonus for us, and, believe me, I am extremely grateful for its generous support.

May I in particular thank Pakistan and China for making a point I would have wished to make — that that support does not go to me or to my colleagues in the international community, but that it goes, as the representatives of Pakistan and of China said, to the people of Bosnia and Herzegovina. I am the Council's servant, but I am also their servant, and it gives me great pleasure to record that the real heroes of this peacekeeping are the ordinary people of Bosnia and Herzegovina, who have borne their terrible pain with such dignity and, I must say, such courage. To watch them reconstructing their lives and their houses in shattered communities is to understand that, although the international community is close to having a success in hand, the real heroes of this operation are the ordinary, decent people of Bosnia and Herzegovina.

The representative of Pakistan said that he wondered whether we would be able to reconstruct the prewar tapestry. An unhappy fact of ethnic wars is that areas become more ethnically pure after them. My earliest childhood memory was, at the age of five, driving through what is now Pakistan, as my family left the Indian subcontinent after 200 years. I can still recall, in my mind's eye, what tortured me in nightmares as a child — an entire station covered with the dismembered bodies of people who had been killed because they were of the wrong religion.

As an Irishman of mixed parentage — Protestant and Catholic — and as a soldier who has fought in campaigns against ethnic wars and ethnic cleansing around the world and now has this task to do, I understand only too well how difficult it is to construct ethnic tolerance after such an event.

But if you had been with me only two weeks ago at the opening of Srebrenica-Potocari, if you had watched 20,000 Muslims — Bosniacs — burying the first thousand of their 7,000 dead from the Golgotha of Srebrenica, in the presence of Serb policemen from Republika Srpska, in the middle of a Serb majority area, all done with unbelievable dignity on both sides, I must say, and absolute peace, you would, I think, believe that although certain areas of Bosnia will not retain their prewar ethnic tapestry, the nation as a whole will remain a multi-ethnic nation — something that I think cannot be said of the other countries of the former Yugoslavia, unhappily, after the war. I believe that that essential quality will remain, owing in large measure to the extraordinary courage of the people.

The representatives of the United Kingdom, Mexico and Bulgaria are entirely right: the Council will know when we have succeeded, because I will no longer be here making reports to it. My job is to get rid of my job, and the closer I get to that, the more I will count it a success. I merely say this: as we now track towards the tenth anniversary of Dayton, that moment should not be very far away.

Dealing with the dysfunctionality mentioned by the representatives of Germany, Guinea and the United Kingdom is one of our big tasks in the year ahead. I must say about the present Government that I do not detect any ill will, any lack of determination or any lack of genuine sincerity about the need for reform. There is, however, a desperate dysfunctionality in some of Bosnia and Herzegovina's institutions, some of it inherited from Dayton. It is very difficult to be the Prime Minster of a country when you cannot choose

any of the ministers. They have no loyalty to you; they have only loyalties to their party; and you cannot sack them and take the difficult decisions that you must take in the light of some of the problems Bosnia and Herzegovina faces.

Nevertheless, I think more must be done to increase the functionality of Bosnia and Herzegovina's institutions, at the top and at every lower level. On that measure, I think the representatives of France, the United Kingdom and Angola are entirely right: we now judge by implementation, not by words. One of the slogans I use is that I do not judge people by what they say; I judge them by what they do.

In that respect, the representative of Spain asked when we would join the Partnership for Peace (PFP). Prime Minister Terzić and I have agreed that, with respect to the Defence Reform Commission's recommendations, now passed by the Government to Parliament, our target — a very tough one to meet — will be that the legislation should have passed through the Parliament of Bosnia and Herzegovina by the next North Atlantic Council meeting, on 17 December. If it is through by then, Bosnia and Herzegovina will have met what many regarded to be the impossible deadline of achieving PFP membership conditions this year. Then — Bosnia having made itself a credible PFP candidate — it will be up to the North Atlantic Council to decide when that should happen. The North Atlantic Council may well decide that, legislation having been achieved, it will be necessary to achieve implementation. But I hope that that will not be a long time off. It set a very high bar, but Bosnia and Herzegovina jumped over it. It is now important that that fact be recognized, and I hope it will be.

The representatives of the Syrian Arab Republic, Cameroon and Chile mentioned the question of refugees, and they are entirely right to do so. On 1 January, we hand over from the international community to the Bosnian authorities what is arguably the most difficult task of all: refugee return. Here there has been a remarkable success, with a million returned to their homes. For the first time in history, the theoretical human right of refugees to return to their homes after war has become a practical reality; it is now becoming a competence of Bosnia and Herzegovina. It would be a disaster if that success was not supported by the funds for the job's continuation and completion in Bosnian hands. That is why the Minister for Human Rights and Refugees, Mirsad Kebo, and I went to Geneva to speak to all the major representatives there and appeal for a continuation of the flow of those funds.

Ownership — mentioned by the representatives of Germany; France; Russia; and Italy, speaking on behalf of the European Union — now comes from the fact that I cannot use the Bonn powers extensively if Bosnia and Herzegovina is to get into Europe. That is the self-defeating factor: if I use the Bonn powers, Bosnia and Herzegovina automatically disqualifies itself from getting into Europe. That is why I should like to say — making the point made by the presidency of the European Union — that increasingly, as we track down the next two years, Bosnia and Herzegovina's future lies in the hands of its own Government and its own people, not in those of the High Representative. The pull of Euro-Atlantic institutions is now more important to Bosnia and Herzegovina than the push of the Bonn powers.

Spain asked when and how NATO might give way to the European Union leadership. That, I fear, it is beyond my pay grade to pronounce on; it is up to the international community to decide. But, as someone who considers himself a passionate European-Atlanticist — and by the by, I see no contradiction there — I believe Europe should take more of a lead, provided that it can be done in the right way, a way which reassures the people of Bosnia and Herzegovina that their security will be properly dealt with and which, crucially, allows other third parties — especially the United States and Canada — to feel that they have a part to play in the process. In my view, that should happen sooner or later.

My final point is to reassure the representative of the Russian Federation that his Government's view is my view. My powers stop at Dayton; they cannot go further. That is the legal basis and limit of my powers. If Bosnia and Herzegovina wants to amend Dayton, it can do that only through its own people, by the process of consensus. That has been my policy, and it will remain my policy.

The President: I thank Lord Ashdown for his comments, and thank him and his team and Judge Meron and his team for joining the Council once again this morning. Do you wish to make any further comment, Judge Meron?

Judge Meron: No, Sir.

The President: I also thank Judge Meron and his team for joining us and thank Lord Ashdown and Judge Meron for taking the time to brief the Council.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 1.10 p.m.

United Nations S/PV.4838

Security Council

Fifty-eighth year

Provisional

4838th meeting

Thursday, 9 October 2003, 3 p.m.

New York

President:	Mr. Negroponte	(United States of America)
Members:	Angola	Mr. Gaspar Martins
	Bulgaria	Mr. Tafrov
	Cameroon	Mr. Tidjani
	Chile	Mr. Maquieira
	China	Mr. Zhang Yishan
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Guinea	Mr. Sow
	Mexico	Mr. Aguilar Zinser
	Pakistan	Mr. Akram
	Russian Federation	Mr. Karev
	Spain	Ms. Menéndez
	Syrian Arab Republic	Mr. Atieh
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

03-54907 (E)

The meeting was called to order at 3.10 p.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

The President: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia and Montenegro, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Kusljugić (Bosnia and Herzegovina), Mr. Drobnjak (Croatia), Mr. Gahima (Rwanda) and Mr. Šahović (Serbia and Montenegro) took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations and in the absence of objection, I shall take it that the Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Theodor Meron, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

There being no objection, it is so decided.

At the invitation of the President, Judge Meron took a seat at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations and in the absence of objection, I shall take it that the Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Erik Møse, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

There being no objection, it is so decided.

At the invitation of the President, Judge Møse took a seat at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations and in the absence of objection, I shall take it that the Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

There being no objection it is so decided.

At the invitation of the President, Ms. Del Ponte took a seat at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations and in the absence of objection, I shall take it that the Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

There being no objection it is so decided.

At the invitation of the President, Mr. Jallow took a seat at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The

Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2003/829, which contains a note by the Secretary-General dated 20 August 2003, transmitting the tenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

Members of the Council also have before them a letter dated 3 October 2003 from the Secretary-General, and its enclosures, which will be issued as document S/2003/946.

At this meeting, the Security Council will hear briefings by the President and Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as the President and Prosecutor of the International Criminal Tribunal for Rwanda (ICTR). As there is no list of speakers for the Council members, I invite those who wish to ask questions to so indicate to the Secretariat as from now.

I now give the floor to Judge Meron, President of the International Criminal Tribunal for the Former Yugoslavia.

Mr. Meron: It is a great honour for me to address this distinguished Council to present the tenth annual report of the International Criminal Tribunal for the Former Yugoslavia. Let me first express my profound appreciation to the Council for the support it has always afforded the Tribunal. If I may speak in a personal capacity, I am particularly pleased to address the Council under the presidency of Ambassador Negroponte.

Let me also pay tribute to the wisdom and dedication of my predecessor as President of the Tribunal, Judge Claude Jorda of France. Judge Jorda served as President of the Tribunal during much of the period upon which I report to you today.

In Security Council resolution 1503 (2003) of 28 August 2003, the Council expressly called on the Presidents of the ICTY and ICTR to use their annual reports to explain their plans for implementation of the Tribunals' completion strategy. Heeding that instruction, I will devote much of my statement today to the ICTY completion strategy.

But before turning to those questions I would like to review briefly some of the Tribunal's activities during the last year, and, as we have reached its tenth anniversary, I would like to place those activities in the context of the Tribunal's accomplishments during its entire decade of life.

Ten years ago, in resolution 827 (1993), the Security Council brought the Tribunal into being. It did so in the hope that the Tribunal would do more than simply mete out justice to individual wrongdoers. It would also help to create an impartial record of atrocities committed during the Yugoslav conflict. It would offer victims a sense that their suffering had been recognized. And, by doing all of those things, it would contribute to reconciliation and reconstruction in the republics of the former Yugoslavia.

It has been our task, to use a phrase of Justice Robert Jackson, the United States Chief Prosecutor at Nuremberg, to "patiently and temperately disclose" the record of the crimes that scarred the Balkans in the 1990s and devastated hundreds of thousands of lives. The vast scale of those crimes — the murders, rapes and deportations and the acts of torture, destruction and cruelty — would dwarf the capacity of any single court to bring about more than a very partial reckoning. But, if with painful slowness at first, with growing confidence and efficiency the Tribunal has helped bring to account a considerable number of accused of high rank.

The Tribunal represents an enormous experiment in international cooperation and institution-building. It has 16 permanent judges from 16 countries and nine ad litem judges from a further eight nations. The judges sit in three Trial Chambers, with a total of nine three-judge benches, and one Appeals Chamber. The Tribunal has held, or is holding, 28 trials involving 44 defendants, with another 31 defendants currently in pre-trial proceedings. A further 16 defendants — 16 as of yesterday — have pleaded guilty. After nearly 10 years in operation, the Tribunal's Chambers have handed down hundreds of decisions.

Of the 44 defendants tried, five, from three different trials, have been acquitted. As important as the Tribunal's ability to reach careful judgements of guilt for the terrible crimes within its jurisdiction, one of the essential tests of its fairness and legitimacy has been its insistence on acquitting defendants when the prosecution has failed to meet its burden of proof.

This past year the pace of our activities has reached an all-time high. The Tribunal continues to honour the commitments it made to the Security Council. With morning and afternoon sessions in its three courtrooms, its Trial Chambers conduct between four and six trials at a time. During the year under review, the Chambers examined 29 merits cases, as well as three cases of contempt, and rendered four final judgements on the merits or sentencing judgements.

The trial of Slobodan Milosevic, former Head of State of the Federal Republic of Yugoslavia, continued before Trial Chamber III. The defendant's health has led to a great number of delays, and it is an extremely complex case. It brings together what had been three separate indictments — for Kosovo, Croatia and Bosnia — with 66 counts, hundreds of witnesses and tens of thousands of pages of documents, most of which must be translated from Serbo-Croatian into English and French, the Tribunal's working languages. But the prosecution's case is coming to a close soon, and the timetable for the defence case has begun to be established.

The Appeals Chamber, too, has disposed of a greater number of appeals than in years past. During the period under consideration, it disposed of 36 interlocutory appeals, two requests for review and two contempt proceedings, and handed down one appeal from judgement.

The Trial Chambers also received an increasing number of guilty pleas resulting from plea agreements, including from Biljana Plavsic, former Co-President of the Republika Srpska. A total of 16 defendants have now pleaded guilty at the Tribunal.

I recognize that because of the egregious nature of the crimes charged before it, and because the Tribunal's roles include providing some vindication for victims and contributing to the creation of an accurate record of terrible atrocities, some are hesitant about a too frequent resort to plea agreements. These concerns are legitimate. But I believe that, with properly detailed acknowledgement by defendants of their participation in the crimes for which they acknowledge guilt and with genuine expressions of remorse, plea agreements can play a constructive role. In some cases, a forthright and specific acknowledgement of guilt may offer victims as much consolation as, or even more than would a conviction following repeated protestations of innocence.

Moreover, as a practical matter, the cooperation secured through plea agreements plays an important role in securing convictions of more important participants in large-scale crimes. The time and resources saved by avoiding trials in some cases both contributes significantly to the Tribunal's ability to meet the deadlines indicated by the Security Council for the completion of its work and enables those in detention to have their cases heard more quickly. Guilty pleas could also bring to the victims a faster sense of the vindication of justice.

With those deadlines in mind, let me turn to addressing the Tribunal's completion strategy.

First, I can report that during the past year we have made major strides in carrying out that strategy. Internally, we have undertaken a series of judicially initiated reforms designed to improve the efficiency of our proceedings. The most important was the removal of the ban on ad litem judges adjudicating in pre-trial proceedings. At my urging, and in accord with an earlier recommendation by my predecessor, Judge Claude Jorda, on 19 May 2003 the Security Council unanimously adopted resolution 1481 (2003), amending the Tribunal's Statute to permit ad litem judges to undertake pre-trial work. That reform enables ad litem judges to make even more efficient use of their time and to enhance their already important contribution to the work of the Tribunal, thus helping it to try cases to completion more expeditiously.

At plenary meetings in December 2002 and July 2003, the Tribunal's judges adopted a number of amendments to its rules of procedure designed to improve efficiency. One revises the methods for permitting the continuation of trials when one of the judges hearing the case is unable to continue, thereby reducing the likelihood of mistrials and retrials. Another gives the Trial Chambers enhanced authority to restrict the scope of the prosecution's case by, for example, limiting the time and the number of witnesses and the number of crime sites, thus avoiding the presentation of duplicative and unnecessarily time-consuming evidence.

Externally, the past year has seen a major advance for the completion strategy through the advancement of a plan to create a special war crimes chamber in the State Court of Bosnia and Herzegovina. As I noted in addressing the Council yesterday with Lord Ashdown, the establishment of the war crimes chamber in Sarajevo will provide a forum to which the Tribunal may transfer a number of cases of lower- and mid-level

accused. In anticipation of the chamber's creation, the ICTY judges amended rule 11 *bis* at a special plenary in September 2002 to set out the criteria that must be satisfied before a case may be referred to a domestic court once an indictment has been confirmed.

I would also note that, during my first official visit — the first official visit of the Tribunal's President — to Belgrade in September, I visited the premises and met with the judges and the prosecutor of the new war crimes chamber established in Serbia. As the region moves towards normality, State courts should assume a major role in bringing offenders to account, but they can do so only if they are not used for political ends and if they meet international standards of due process and fair trial.

I can report that we are continuing to search for ways to streamline our procedures. I have revitalized a committee of judges called the Judicial Practices Working Group, giving it a mandate to develop and analyse proposals to shorten trials and speed the hearing of appeals. The Prosecutor has recently circulated a group of proposals with the same goal in mind and the judges are actively considering and reshaping a number of them. The Rules Committee of the judges has some of these proposals under active consideration. The Committee will recommend a package of reforms aimed at improving the rules of disclosure, pretrial management and presentation of evidence to the judges' regular plenary meeting in December. The purpose is to balance the interests of the Prosecutor and the accused so that the task of the former is manageable while the rights of the latter to a fair trial remain protected.

I must report that, while we are striving in every way possible to meet the goal of completing all trials by the end of 2008 and all appeals by the end of 2010, one cannot predict the completion date of judicial proceedings with scientific accuracy. Many factors may affect the outcome. Some of those influences are within the control of the Tribunal, others not; of the former, some are within the control of the judges and others within the power of the Prosecutor.

Shortly after I became President of the Tribunal, I formed a working group composed of representatives from the Chambers, the Registry and the Prosecution in order to improve the efficiency with which trials are scheduled. I have also asked this group to make careful projections of the time required to complete our trials, based on a range of assumptions. Let me now give the Council a summary of those estimates, as of today.

I am pleased to report that we should be able to complete the trials of all individuals currently in the custody of the Tribunal, including those on provisional release — both individuals whose trials have already begun and individuals who are in pre-trial proceedings — within the 2008 deadline. There are 22 cases in these categories.

Already confirmed indictments cover an additional 17 individuals who are at large. It will take 11 trials to handle the cases of these fugitives. It may be possible to complete the cases of two of the three fugitives whom the Council has identified as being of the highest priority — Karadzic and Mladic — within the 2008 deadline, assuming that they are tried together and brought into custody early enough to allow time for such long trials to be held within the target dates set by the Security Council. If there is an unexpected surge in guilty pleas, it may even be possible to complete the trials of some of the other indicted fugitives within the 2008 goal, but it will not be possible to complete all of them by that time. Trying the cases of all the fugitives without additional guilty pleas would probably require trials at least through 2009.

Our estimate on this count depends on predictions not only about the likely length of the various trials, but also about the timing of the arrest and transfer of these fugitives to The Hague, the number of guilty pleas received and the number of cases to be transferred to the new war crimes chamber in Sarajevo. The sooner fugitives arrive, the better are the chances of joining their cases to those of individuals already at The Hague, thus avoiding the greater time and expense that separate trials would require. How many of the 17 fugitives from justice, and how many of those already in the Tribunal's custody, will plead guilty cannot, of course, be predicted. A large number of guilty pleas could attenuate our present estimates. In short, the sooner fugitives are turned in, the greater the number of guilty pleas received, or the greater the number of cases that can be transferred to Sarajevo, the sooner we will be able to finish the trials of these cases.

The first of these considerations — the handing over of fugitives — is, of course, outside the Tribunal's control. It depends above all on the cooperation of the States of the former Yugoslavia. I join my predecessors in urging this Council to press all Member States to

cooperate fully and promptly with the Tribunal's work. During my recent visit to Belgrade, I was encouraged by an emerging understanding that cooperation with the Tribunal is both necessary and desirable, but much remains to be done on arrests of fugitives, access to evidence, and facilitation of witness testimony, especially by present and former officials.

The Prosecutor has some role to play in the second of these considerations — the number of guilty pleas. The third — the number of cases transferred to the Sarajevo war crimes chamber — depends on how quickly the Chamber becomes operational.

I have recently learned from the Prosecutor that she intends to submit approximately 14 additional indictments covering approximately a further 30 individuals. While four or five of the new indictments will involve individuals whose cases can be joined to existing ones, eight or nine of these indictments will require separate trials.

Here is the problem. By setting 2004 as the end of the Prosecutor's mandate to investigate, the Security Council clearly expected her to produce some results, including new indictments. It may well be that future indictments will in fact target persons more senior and more responsible than persons who have been indicted in the past. But, as I appear before the Council today as President of the Tribunal to report for the first time on the Tribunal's overall activities, it is my duty to be absolutely candid and transparent about how these cases, like those I have described earlier, fit into the calendar established by this Council. Thus, I must tell the Council that, based on our present projections, it will not be possible to accommodate any of these new indictments within the timeframe indicated by the Council. I say this recognizing fully that it is the Prosecutor's prerogative to select the individuals against whom she will file indictments, and recognizing that if the Prosecution has sufficient evidence to make a prima facie case, we judges must confirm the indictments.

Pursuant to the Statute and Security Council resolutions, including resolution 1503 (2003), it is not within judicial authority to assess whether the subjects of each of these new indictments meet the standard set by this Council of being the most senior leaders suspected of being most responsible for crimes within the ICTY's jurisdiction. The matter is clearly between the Council and the Prosecutor.

The Tribunal's mandate is to try persons responsible for serious violations of international humanitarian law committed during the Yugoslav conflicts. In resolution 1503 (2003), the Council did not spell out the goals to be achieved during the sunset months of the Prosecutor's investigatory functions. Clearly, the Prosecutor will thus submit additional indictments, which, according to our present calculations, will inevitably cause a significant additional slippage in the target dates of the completion strategy — perhaps as much as two years beyond what it would take to try the fugitives who are delivered to The Hague. Of course, once the Prosecutor comes to the end of the investigatory phase of her work, we will be in a much better position to make projections with confidence.

One thing must be clear, however: once indictments have been submitted and confirmed by the judges, the legal process will have started, and it will have to run its course in accordance with the governing law and the demands of due process. A strict application of the target dates for the completion strategy must not — I repeat, must not — result in impunity, particularly for the most senior leaders suspected of being most responsible for the crimes within the Tribunal's jurisdiction.

I realize that some members of the Council will find these projections sobering. But, even as I express my commitment to do everything possible, through continuing reforms of procedure and trial management practices, to improve the speed and efficiency of our proceedings, I must also remind the Council that in criminal trials speed cannot be purchased at the price of sacrificing the demands of due process. The legacy of the Tribunal will be measured not only by whether it succeeds in judging those responsible for the most serious crimes falling within its jurisdiction, but also by whether it does so in accordance with the strictest standards of fairness.

Ensuring that those standards are met requires skilful work, not only by our judges, but also by our staff. Particularly as the completion of the Tribunal's work comes into sight, it will be more and more difficult to retain and attract staff of the highest calibre, unless opportunities for advancement or continuation of service within the United Nations are made available. The establishment of additional criminal jurisdictions creates additional pressure in this regard. I hope the members of the Council — and the members of the General Assembly — will recognize the importance of this issue and support our proposals to address it.

The mission of the Tribunal has been to try, not all of those who have committed violations of international humanitarian law, but those most responsible for major atrocities. That mission will not be completed until we have tried, in particular, Mladic and Karadzic.

Ten years ago, the Security Council created the ICTY with the goal of putting an end to impunity for mass atrocities and serious violations of international humanitarian law. During that decade, with the constant support of the Council, the Tribunal has given victims a chance to see their sufferings recorded and, at least in some measure, to be vindicated. By laying bare the consequences of ethnic and religious hatred, the trials held by the Tribunal have demonstrated the viciousness of those who built up their power by encouraging their followers to embrace such hatred. The Tribunal has thus made a fundamental and lasting contribution to bringing justice to the peoples of the former Yugoslavia. Our jurisprudence will also supply a foundation for all international criminal courts and a model for national prosecutions of those who commit atrocities.

The President: I thank Judge Meron for his briefing.

I now give the floor to Judge Møse, President of the International Criminal Tribunal for Rwanda.

Judge Møse: It is a great honour to address the Security Council and to present the eighth annual report of the International Criminal Tribunal for Rwanda (ICTR). This provides an opportunity, first, to take stock of the results achieved so far; secondly, to present the ICTR Completion Strategy, as requested by the Council in resolution 1503 (2003); and thirdly, to introduce the two recent requests submitted to the Security Council concerning ad litem judges.

First, I would like to say a few words about the results achieved so far. In 2003, three judgements, involving four accused, were handed down. The first judgement was delivered in February, two others followed in May, and another four judgements, involving eight accused, are expected by the end of the year, or very early next year. The total number of judgements rendered in the second mandate is, therefore, nine, involving 14 accused. This reflects a 100 per cent increase in the number of accused who were tried during the Tribunal's second mandate, under the presidency of my distinguished predecessor, President Pillay, as compared to the first mandate, from 1995 to 1999. It means that the Tribunal will soon have rendered 15 judgements, involving 21 accused, since the first trials started in January 1997.

The Butare and Military cases, involving six and four accused, respectively, will continue in the third mandate. Members of the Security Council will recall that in resolution 1482 (2003) they decided not to prolong the terms of office of two non-re-elected judges in respect of those two cases. I am pleased to report that we were able to sort out the problems and that those trials are continuing and did not have to start *de novo*.

In the Butare trial, the two remaining judges decided to continue with a substitute judge, in pursuance of the recently amended rule 15 *bis*. Appeals against this decision were dismissed. In the Military case trial, the problems were solved by transferring the trial to another Trial Chamber, with a totally new composition. The parties agreed that the case should continue. This brings the total number of accused whose trials have been completed or are in progress to 31.

A priority at the beginning of the third mandate has been to start new trials as soon as possible. On 27 July, Trial Chamber III commenced the Gacumbitsi trial, involving one accused, and in the course of 15 trial days, 14 witnesses were heard. On 1 September 2003, Trial Chamber I started another single accused case, in which 15 witnesses were heard during 12 trial days. The Prosecution has closed its case in both trials. In addition to those two single accused cases, two voluminous trials, each involving four accused, are scheduled to commence on 3 November this year. Therefore, by the end of 2003, a total of 41 accused will have had their cases completed or in progress.

The commencement of four new trials involving 10 accused during the second half of 2003 is a direct consequence of Security Council resolution 1431 (2003), which allowed for the establishment of a pool of 18 ad litem judges. The first ad litem judge took up office on 1 November 2003, and we were immediately in a position to start a shift system — a morning shift and an afternoon shift in one Chamber. The other three ad litem judges will arrive in Arusha in a couple of weeks, subject to appointment by the Secretary-General. These four ad litem judges will be sitting in four trials. I would like to thank the Security Council for making further progress possible.

However, much work remains, at present 22 detainees are awaiting trial. The ICTR is anxious to

commence these cases as soon as possible. The statutory provision that the ICTR may only use four ad litem judges at any one time seriously limits our capacity to commence new trials. Therefore, on 29 September 2003, the ICTR requested the Security Council to increase that number from four to nine. I cannot stress enough the importance of this reform. If granted, the number of permanent trial chamber sections will increase from four to six. The ICTR will thereby enjoy the same judicial capacity for conducting trials at first instance, as the ICTY has had for a long time.

Our requests, which members have received, explain the need for the nine ad litem judges and how they will facilitate our task, both in relation to twin-tracking and to the so-called shift system. But let me elaborate a bit further.

Several cases will be trial-ready in 2004, but the four big cases — Butare, Government I, Government II, Military — will require most of the time of the eight permanent judges involved in those trials until 2005. An additional number of ad litem judges will provide the necessary flexibility to hear new trials. Three examples may illustrate this point. First, it will be possible to establish a trial chamber section composed of the ninth permanent judge and two ad litem judges. Secondly, when there is a break in one of the big trials, it will be possible to create a trial chamber section with one or more permanent judges from that case, sitting with ad litem judges, to hear a smaller case. Thirdly, by allowing one of the judges in the big case to supervise the out-of-court work in that case, while the two other judges sit in a small trial, the trial chamber may ensure increased progress of the big case at the trial stage. That may reduce the time needed for judgement writing.

These methods can be used very soon. As members know, the General Assembly already elected a pool of 18 judges. Many of them have indicated that they can come to Arusha at short notice. Therefore, additional ad litem judges can be used as soon as a permanent judge is available.

In that context, it should be noted that the ICTR has developed methods of disposing of single accused cases within a limited period of time. They are now heard in two slots — one for the Prosecution case — usually between 15 and 20 witnesses — and one for the Defence case, usually a similar number. Such slots can be heard when there are breaks in the big trials.

The other request submitted by the ICTR to the Security Council relates to the increase of the competence of ad litem judges to do pre-trial work. Here I refer to our letter of 8 September 2003. The reform is important, but it should be uncontroversial in view of the identical resolution 1481 (2003), adopted for the ICTY. I will therefore not develop this orally here, but will refer to the reasons given in our letter. Let me simply state that both statutory amendments are instrumental to the timely completion of the Tribunal's mandate.

This leads me to the completion strategy. At the commencement of the third mandate, the ICTR has considered it a priority to elaborate a completion strategy. A revised version of that document was sent to the Security Council on 29 September 2003. It takes into account Council resolution 1503 (2003), in which the Security Council called on the two ad hoc tribunals to take all possible measures to complete all trial activities at first instance by the end of 2008. In the completion strategy, it is estimated that with four ad litem judges, the ICTR will be in a position to finalize all ongoing trials, together with cases involving the remaining 22 detainees, by 2007. However, by 2008, only about eight other accused could be brought for trial out of the 16 indictees who are still at large and the maximum of 26 suspects who have not been apprehended. These projections may have to be revised. Unforeseen circumstances may cause delays. However, with an increase from four to nine ad litem judges, the Tribunal will be in a better position to finalize most trials by the target date, in spite of such unforeseen delays.

At present, the total number of persons actually before the ICTR is 63; that is 41 cases completed or in progress and 22 detainees awaiting trial. With nine ad litem judges, the ICTR will be able to hear trials of a higher number by 2008. Much depends on the number of indictments that will be drawn up. This falls within the discretion of the Prosecutor. But let me say that I consider it impossible within the target date to hear trials involving another 42 persons, 16 indictees and 26 suspects. It will be an important task to single out the leaders for further prosecutions by the ICTR and transfer cases involving intermediate- and lower-rank accused to national jurisdictions, as required by resolution 1503 (2003).

The Security Council decided to establish a separate Prosecutor for the ICTR. I would like to thank the previous Prosecutor, Ms. Carla Del Ponte, for her

great contribution to the ICTR. I was also very pleased to welcome the new Prosecutor, Mr. Hassan Jallow, when he took up office in Arusha on 3 October 2003. I look forward to listening to him today.

During the period under review, a number of reforms have been implemented with a view to accelerating the proceedings. Let me briefly mention some of them: the establishment of a so-called new trial committee, composed of representatives from all three branches of the Tribunal, which facilitated the commencement of four new trials; simultaneous interpretation during trial from Kinyarwanda into English and French in all three trial chambers; amendment of rule 15 *bis*, which makes it possible to continue a trial with a substitute judge where a judge falls ill, dies or is not re-elected. As mentioned, that provision has already been applied.

Another reform is the establishment of a procedure to facilitate plea agreements in cases where an accused has expressed the intention to plead guilty. I note the difference between the ICTR and the ICTY, in that only three persons have pleaded guilty at the ICTR, compared with sixteen, in the ICTY.

The setting up of a Coordination Council, composed of the President, the Prosecutor and the Registrar, was another important reform. It has already served its purpose, and the Council will hold frequent meetings in order to avoid any problems of communication or coordination. Obviously, aspects relating to the completion strategy will be discussed frequently during such meetings.

Let me finally also mention that proposals from a working group to accelerate pre-trial proceedings are presently under consideration by the judges.

Let me now turn to the relationship with Rwanda. As the Council knows, the ICTR experienced difficulties over the flow of witnesses from Rwanda in 2002. I am now pleased to report that the situation has improved. For many months, there has been a steady flow of witnesses from Kigali to Arusha. The ICTR wants to maintain and develop a harmonious relationship, which will make it easier for the Tribunal to contribute to reconciliation within Rwanda. We were recently very pleased to receive two groups of ten Rwandan judicial officers, each composed of judges and prosecutors, as well as officials from the Ministry of Justice. We hope that other representatives of Rwandan society will soon visit the Tribunal in Arusha.

I hope that the Security Council appreciates the results achieved so far. The ICTR will continue to develop its working methods in order to further increase efficiency. Let me end by thanking the Members of the Council and the Secretary-General for their continued support of our work.

The President: I thank you, Judge Møse, for your briefing. I now give the floor to Ms. Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

Ms. Del Ponte: I am most grateful to have once again the opportunity to address the Council. As requested in resolution 1503 (2003), I intend to explain my plans to implement the completion strategy of the International Criminal Tribunal for the Former Yugoslavia (ICTY). In this context, I will also focus on some essential conditions that must be implemented for a successful completion strategy, including the full cooperation of the States in the former Yugoslavia and the deferral of cases to domestic jurisdictions.

In resolution 1503 (2003), the Security Council provides my office with clear guidance regarding the time frame of my investigations. I can report that necessary measures are continuously being taken to ensure the completion of all remaining investigations by 2004. This is also reflected in our budget submission, which proposes significant cuts in the Investigation Division during 2005. I am confident that the remaining most senior leaders who are suspected of being most responsible for crimes falling within the ICTY's jurisdiction will have been indicted by the end of 2004.

Following the information provided to the Council by President Meron, I would like to give members some information regarding the nature of the cases that remain under investigation. It will be understood that I cannot give precise details about these cases, as that would compromise the investigations.

There are now 13 investigations remaining that, in my judgement, must be completed by my office before it can be said that the investigative mandate entrusted to me and my predecessors by the Council has been completed in a responsible manner. I constantly review these investigations. As things stand today, it is possible that not all of them will result in new indictments. All these cases involve the remaining individuals who held the highest possible levels of responsibility, for very serious crimes committed in the

former Yugoslavia, and involving most of the parties to the conflict spanning the period from 1991 to 2001.

Even if all these investigations resulted in new indictments, they would lead to nine additional trials, because some could be joined with other future trials. They involve approximately 30 individual suspects, all at the highest levels of responsibility. At this stage, there is hardly any prospect that these cases could be assumed locally.

In addition to these 13 top-priority investigations, my office has conducted 17 additional investigations that were suspended at the end of last year as a result of my decision to focus solely on the most senior perpetrators. They involve 62 suspects who will not be formally indicted by the ICTY. I expect these cases to be referred to domestic courts for further investigation and prosecution according to the following distribution: 12 cases involving 48 suspects to be referred to Bosnia and Herzegovina; three cases involving eight suspects to be referred to Croatia and two cases involving six suspects to be referred to Serbia and Montenegro. The great attention we and the international community have devoted to the referral of cases to domestic jurisdictions demonstrates a general concern that no impunity should be tolerated.

There are currently three ongoing trials before the ICTY, involving four accused. Another 18 cases, involving 27 accused, are at the pre-trial stage. There are also currently 17 indicted fugitives remaining at large, and if all were surrendered to the Tribunal in a timely fashion, there could potentially be an additional 10 trials, not taking into account that some joinders with other trials or guilty pleas may also be possible.

The bottom line with all these cases is that there could be between 40 and 45 trials to be completed by the Tribunal, including the three ongoing trials, by 2008. It is very likely that some of these trials will result in guilty pleas, while others could be referred to the domestic courts in the former Yugoslavia. That is the scope of the ICTY's potential trial load.

The Council has heard the accurate and realistic report of President Meron regarding the dates for the completion strategy. I obviously share his estimates, which are the result of a very fruitful and transparent process of coordination, in which all three pillars of the Tribunal are closely associated. My Office is committed to continuing this dialogue with the President as closely as possible, so as to ensure that the Tribunal as a whole can fulfil the objectives defined in its mandate and in the various Security Council resolutions, not least in resolution 1503 (2003) of 28 August.

Now, according to the latest calculations made jointly with the Registrar and the President, it will not be possible to prosecute in The Hague before the end of 2008 all the suspects and accused who will have been indicted by the ICTY by the end of 2004. I take this situation very seriously, and, to supplement the conclusions drawn by the President, I would offer the following possible approach for the Council's further consideration.

By the end of next year, we will have a precise view of what remains to be done. All remaining indictments will have been issued and will most probably be public. The Tribunal will know the status of the current list of fugitives and will also know how many additional fugitives there will be, arising out of the new indictments. It will also be much clearer which cases will result in pleas of guilty. In close cooperation with the President, and on the basis of the guidance provided by the Security Council, it will then be possible to decide which cases should be prosecuted in The Hague and which cases could properly and responsibly be referred back to the domestic jurisdictions, in accordance with the procedure foreseen in rule 11 *bis* of the Tribunal's Rules of Procedure and Evidence. Among the many reasons in favour of this option, I would highlight the following.

Referring ICTY-indicted cases to the domestic jurisdictions offers better guarantees that these cases will actually be tried, rather than referring non-indicted cases, as would be the case if I stopped all investigations now. Namely, it would enable the ICTY to use its primacy and call back cases if serious flaws were noted. This would not be possible for non-indicted cases.

As I said before, my remaining investigations cover the region and concern all the main parties to the conflict. By completing these investigations, the ICTY will have proved that it worked impartially towards achieving justice, peace and reconciliation in the former Yugoslavia. I kindly invite the Council to consider the political conclusions that some might draw if I were forced to cease investigations at this juncture.

This option would ensure that the international community has succeeded in maintaining the highest standards of criminal justice in the operations of the

ICTY, in particular those involving the independence of the Prosecutor, as expressed in Article 16 of the Statute.

For these reasons, I believe that we should continue on the road indicated by the Security Council last August, bearing in mind that, by the end of next year, all remaining indictments will have been issued. At that stage, at the very beginning of 2005, we will, with the President, review the situation to determine which cases should remain in The Hague and which should be referred to domestic jurisdictions. This solution conforms with the guidelines provided by the Council in resolution 1503 (2003) and our firm commitment to conclude our investigations by 2004 and the subsequent dates of our completion strategy. We will continue to work diligently towards that end.

In the meantime, in relation to the cases remaining in The Hague, I will also continue to work closely with the President and the Registrar to identify other methods to improve the efficiency of the Tribunal, to shorten the length of trials, and to maximize the use of the courtrooms. It is, and it will of course be, up to the Security Council to provide us with the necessary framework that will allow us to implement the completion strategy, while maintaining the necessity to have independent and impartial justice. In this connection, allow me to elaborate briefly on two key issues directly related to the success of the completion strategy: full cooperation by the States of the former Yugoslavia and fostering reforms and support of national courts.

Full cooperation by the States in the former Yugoslavia is of crucial importance to speeding up the trial process. Providing access to documents and witnesses, as well as carrying out arrests and transfer of fugitives, remains the most basic contribution of these States to the completion strategy. It is also their international legal obligation to do so. Following my address to the Security Council on 29 October 2002, I regret to have to report that Croatia, Serbia and Montenegro, Republika Srpska and the Bosnian Croat party to the Federation of Bosnia and Herzegovina have not so far achieved full cooperation with the Tribunal.

In the case of Croatia, I can report that most of my requests to the Croatian Government regarding access to documents and witnesses are now being treated seriously and professionally — now. The backlog of important benchmark requests has been cleared just recently. It is regrettable, though, that on average it takes more than a year to process a request from my Office. It is also noteworthy that when it comes to important international deadlines, when the status of cooperation is in the limelight, the speed and quality of compliance with my requests increase considerably. I hope — and, indeed, I have received assurances from the Government on this matter — that with the new requests from my Office there will be no undue delays.

At the same time, the Croatian authorities bear the responsibility for the failure to arrest and transfer General Ante Gotovina. The Croatian Government recently submitted reports to the Registrar, pursuant to ICTY rule 59, providing additional explanations and pointing to the conclusion that the accused Gotovina was outside Croatian territory. Most of the information provided in these reports was already known and outdated. In the meeting I had this week with Prime Minister Račan, I shared information available to me about the whereabouts of Gotovina, which comes from various sources, concurring that the accused is in Croatia. I also gave details about the protection that he is receiving in Croatia from persons within the institutions.

In front of me, the Croatian authorities — the President and Prime Minister — did not deny that the accused could be in Croatia, despite public statements saying that he would be in a European country. We agreed to work together in order to locate and arrest him, and I received firm assurances from the Government in this respect. Until we see results, though, Croatia's obligations in accordance with Security Council resolution 1503 (2003), in particular its paragraph 2, will remain to be fulfilled.

Our cooperation with Belgrade remains very difficult and heavily politicized, whether in regard to arrests and transfer of fugitives or access to documents and waivers for high-level witnesses. I continue to face serious problems regarding access to key documents, in particular those held in various archives. I showed understanding for the Serbian concerns regarding protective measures for some materials, even providing the Government with my written commitment in the Milosevic case. It is understood that protective measures ought to be reasonable and not contradict the public interest and the principle of transparency of the trials. It is regrettable that the requested documents only started to arrive in my Office in recent months and only as a result of binding Court orders issued by the Trial Chamber, not as a result of my requests for assistance or voluntary contribution.

Also, I proposed a mechanism in February this year to ensure proper access to key archived documents by my staff, respecting the Government's confidentiality concerns. It took more than seven months to receive a reply, which arrived only last week. It is actually a counter-proposal that is totally unacceptable, since it would forbid my staff to have access to the documents for the whole period from 1991 until the end of 1995, which obviously corresponds to the wars in Croatia and Bosnia and Herzegovina — the core of the ICTY's mandate.

In the Milosevic trial and other cases, I sense a willingness on the part of the authorities to retain crucial material that could prove the implication of the then Belgrade authorities — the former regime — in the crimes committed in Bosnia and Herzegovina. Belgrade invokes national security concerns in regard to these materials, but in fact such an approach is limiting or slowing down the Tribunal's access to critical evidence. This goes against the interests of justice and truth, and also does not help in terms of our completion strategy. As an example, we have been asking for Ratko Mladic's personal file for about two years now, and, while a file is not a fugitive, we still cannot get it.

Moreover, witnesses still have to go through a lengthy process whereby they have to be granted waivers by the authorities. That process, which exists only in Serbia and Montenegro, has proved to be extremely slow and painful, and it has an obvious detrimental effect on the trials and on our efforts to reduce their length. For example, to this day, over 60 such requests for waivers are pending a decision.

I was inclined to speak about some improvement in Belgrade's cooperation with the ICTY before my visit to Belgrade last week, but I am not in a position to do so. There is no true commitment for cooperation or readiness to take difficult steps, which are badly needed, and not only from the point of view of the Tribunal. The authorities are unanimous in stressing the necessity to cooperate with the Tribunal; however, when it comes to tough decisions or the need to provide sensitive documents, we face obstruction and negative attitudes.

I have reason to believe that, among the 17 fugitives remaining at large, well over half of them, including Ratko Mladic, reside in Serbia and Montenegro. The authorities now concur with me that at least seven accused are in Serbia. On a number of occasions this year, my Office has transmitted very precise information to the Serb authorities, in the expectation that it could lead to the arrest of fugitives. Unfortunately, we received very limited feedback after such intelligence was passed on, and it was not convincing.

In relation to Bosnia and Herzegovina, the authorities of the Republika Srpska still have not located or arrested a single indicted fugitive to date. Karadzic is known to be constantly moving between the Republika Srpska and Montenegro. Additionally, we cannot obtain full access to the necessary documents or individuals, while certain archives and their contents are, clearly, being hidden from my investigators. It appears that there are still influential elements in the police and army structures in the Republika Srpska that actively protect and support the fugitives and war crimes suspects.

To conclude my comments on the level of cooperation on the part of the States and entities of the former Yugoslavia, I must mention the Bosnian Croat party to the Federation of Bosnia and Herzegovina. For several years now, my office has received very little cooperation from the Bosnian Croat authorities in respect of cases involving Bosnian Croat perpetrators. The reality is that there is no cooperation in these cases, and there have been no steps or efforts to comply with the Tribunal's requests. Although my Office has received some assistance in the location of witnesses, there has been no response to requests for relevant documentation — in fact, there has been consistent and deceitful denial of the existence of such material. Much remains to be done on the part of the Bosnian Croat party to the Federation.

Finally, I have to share my concern that the 2004 deadline set in the completion strategy, instead of speeding up cooperation, may well, on the contrary, encourage States in the region to buy time and to place additional obstacles in the way of cooperation with the ICTY.

As is clear, lack of cooperation by the States concerned can endanger the completion strategy. Another key development that will influence the implementation of the completion strategy is the ability of the countries of the former Yugoslavia to prosecute lower-level perpetrators themselves, including suspects or indictees that the ICTY might wish to refer to

Bosnia and Herzegovina, Serbia and Montenegro, or Croatia — and they will not be low-level perpetrators; they will be mid- and high-level perpetrators.

I am relieved to hear that the donors conference for the War Crimes Chamber in the State Court of Bosnia and Herzegovina will take place soon. My office is obviously prepared to assist in this process.

When considering which cases to refer back, the main problems confronting us are the absence of adequate domestic witness-protection arrangements and the lack of legislation in any country in the region to enable evidence gathered by the Tribunal to be admissible in the domestic courts. We are already facing this situation in a case which is to be referred to Bosnia and Herzegovina. The witnesses who were prepared to testify at The Hague are not willing to do so before the domestic court. None of the States of the former Yugoslavia have a legal obligation in their national legislation to recognize and act upon the indictments issued by the ICTY, in particular those transferred to the domestic courts for prosecution. The same can be said about the status of the non-indicted cases I intend to refer to the domestic courts, together with the evidence I have gathered during the course of my investigations.

This, obviously, constitutes a serious impediment to the transfer of cases from ICTY to domestic jurisdictions, and it is my hope that the international community will assist in providing the necessary input for the relevant changes in domestic legislation to occur.

It would appear that Croatia, Bosnia and Herzegovina, and Serbia and Montenegro each understand the need for domestic war crimes prosecution, and that this involves a long-term commitment. This is highly commendable and is essential if true reconciliation and a lasting peace are to be achieved. However, without cooperation between them in terms of bilateral legal assistance, provisions for the protection of witnesses and evidence, and, finally, mutual agreements on the extradition of accused persons, any realistic prospects of dealing with the cases referred by the ICTY to the domestic courts of the former Yugoslavia will be slim.

Let me assure the Council once again of my determination to implement the objectives set by the Security Council. In so doing, I will continue working closely with the President. Let me also reiterate that I am grateful to the members of the Council for their support and trust. That support remains crucial, notably to encourage States to cooperate fully with the ICTY and to foster the creation of reliable domestic judiciaries in the region. Ultimately, we will all benefit if justice, the rule of law and reconciliation prevail in the former Yugoslavia.

The President: I thank Prosecutor Del Ponte for her very informative briefing, and I now give the floor to Mr. Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: I feel particularly honoured, first, by the Council's decision to appoint me as the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR), and, secondly, by its having invited me to address the Council specifically on our plans for implementation of the Tribunal's completion strategy and generally to report on the work of the Tribunal. I shall endeavour, to the best of my ability, to discharge my duties as Prosecutor, and I look forward to the cooperation of all States and to the support of the United Nations in this regard.

Since my appointment, I have had a briefing session with my immediate predecessor, Ms. Carla Del Ponte, whose immense and invaluable contribution to improving the efficiency of the ICTR, and, more generally, to the cause of international criminal justice, I wish to acknowledge. Representatives of the Government of Rwanda whom I have met here in New York and in Arusha all have assured me of the cooperation of their respective Governments with the Tribunal for the effective discharge of its mandate. I am greatly encouraged by such assurances and look forward to fruitful cooperation with them. I myself propose to go to Rwanda shortly for consultations with that Government.

I am also pleased to report to the Council that I am now based in Arusha, the headquarters of the Tribunal, where I have been holding discussions with the President, as well as with the Registrar, the Deputy Prosecutor, Mr. Bongani Majola, and the rest of the staff.

As I enter the early stages of my mandate, I am acutely conscious of the challenges that lie ahead. The process of international criminal justice is for many reasons, many of which have been well documented, very difficult. But it is a process which can and must be undertaken if we are to succeed in reducing, if not eliminating, impunity and preventing egregious

violations of human rights which are a blot on our conscience and a threat to peace, justice and security.

I believe that there has been a substantial learning experience, which should now provide an adequate foundation for this next, crucial phase in the Tribunal's mandate. Our focus in this phase will be set firmly on the proper and effective implementation of the completion strategy. In that respect, I shall be guided by the Statute of the Tribunal, particularly with regard to the selection for prosecution of those persons who bear the greatest responsibility for the tragedy which occurred in Rwanda. Similarly, the concerns of the Council, expressed in inter alia its resolution 1503 (2003), of 27 August, will guide the policy of the Office of the Prosecutor.

In the ensuing months, while the investigation and prosecution processes continue — particularly with the cases involving top Government and military leaders — my staff and I will devote considerable effort to reviewing the case load with a view to determining which charges should be proceeded with or transferred to national jurisdictions, as well as the measures which need to be taken to meet the target date set by the Council for the conclusion of all investigations, the completion of all trial activities at first instance, and the conclusion of the work of the Tribunal, as stated in the resolution.

I have already put in place mechanisms for a review of the cases of those in detention without trial — those have not been brought before the courts; of the 16 indicted fugitives who are at large; of the 26 targets of investigation; and of the 40 cases earmarked for possible transfer to national jurisdictions. The aim of the review is to determine within the next few months more realistic figures, which I do not expect to exceed and which may indeed fall below the completion strategy ceilings indicated for the workload of the Tribunal.

With regard to work in progress, there are currently four trials involving 12 accused before the Trial Chambers. We have the so-called Military I case, with four accused; the Butare case, with six accused; and the Gacumbitsi and Ndindabahizi cases, with one accused each.

Moreover, the Tribunal plans to commence two additional trials, involving four accused each, on 3 November 2003, following the filing of first charges by the Office of the Prosecutor. These are the so-called Government cases, which will bring to the dock a large number of political leaders of Cabinet rank who were responsible for, inter alia, the planning of the genocide and instigating others to carry out the terrible events of that tragedy. The Military I trial, the Butare trial and the Government cases are big and voluminous cases which involve multiple accused persons and high numbers of witnesses per case. They are at a relatively early stage of development.

All these cases are, by their nature, quite complicated and difficult. It is therefore not easy to predict how long each will take or how long the two aforementioned trials will last. We have only our experience from the previous multi-accused and multi-witness trials on which to base estimates. The experience of cases such as the Media trial, which lasted three years, and the Cyangugu trial, which also lasted three years, enable us to estimate roughly that the Butare trial may last four to five years and the Military II trial may last about two and a half years.

The Gacumbitsi and Ndindabahizi trials are relatively small. Both the Chambers and the Office of the Prosecutor plan to complete the hearing of all the evidence and the closing arguments in those two cases before the end of 2003. If that happens, it will have taken less than four months per trial to complete the hearing of the evidence.

For our part, we in the Office of the Prosecutor will make greater efforts to use the Rules of Procedure and Evidence which are aimed at shortening trials. For instance, the time required to adduce the testimony of genocide experts has been considerably shortened by resort to Rule 94 *bis* of the Rules of Procedure and Evidence, which permits the presentation of written, instead of oral, testimony to Chambers under specified circumstances. We shall also constantly review witnesses in order to avoid duplication and wasting the time of the Trial Chambers. A major effort will also be launched to ensure that all trial teams meticulously keep to the Rules of Procedure and Evidence in order to reduce the incidence of motions, which consume a large part of the Tribunals' time. Internal measures are also being implemented in the Office to enhance the monitoring and supervision of prosecutions as well as to foster a greater sense of urgency on the part of the staff with regard to the work at hand.

Regarding the other accused currently in detention at the facility in Arusha, the Office of the

Prosecutor is ready to proceed in the first quarter of 2004 with trials in six cases involving nine accused. Another seven cases, each with a single accused, could be ready for trial in the second quarter of 2004. However, owing to limits in the availability of Chambers to handle these trials, I do not expect that all the cases that will be trial-ready in the first and the second quarters of 2004 will go to trial during those periods, unless there is an increase — from the current four to nine — in the number of ad litem Judges made available to the ICTR at the same time, and unless an amendment is also made to the Statute to increase the competence of those Judges, as proposed by the President of the Tribunal. Those measures would enable the ICTR to commence the trials during the periods mentioned, and I would urge that a decision be taken in that direction.

In line with the strategy of concentrating on the prosecution and trial of the most senior leaders suspected of being most responsible for crimes falling within the ICTR's jurisdiction, I have also begun the process of reviewing the case of each accused who is awaiting trial, with a view to assessing the level of responsibility. With respect to those who do not meet the standard, the Office of the Prosecutor will immediately take steps to file motions in Chambers, under Rule 11 *bis*, requesting that indictments against them be suspended and that their cases be referred to other jurisdictions for trial. The review will also assess the relative strength of each case. Should there be any case with significantly questionable chances of success, a decision will have to be taken whether to withdraw the indictment or indictments. It is quite possible that that process will reduce the number of those awaiting trial from the current 21. I plan, following that review, to make the cases of the rest of those detained ready for trial before the end of 2005.

With regard to guilty pleas — the case for which has been very well put by the President of the Tribunal for Yugoslavia — we at the ICTR are now adopting much more of an open-door policy towards plea bargains and, as a result, towards acceptance of guilty pleas. This is an acceptable part of the criminal justice process, provided that the rules relating to protection of the accused and to fair trial are scrupulously observed. Once that is done, I think it is fair enough that plea-bargain processes be engaged in and that guilty pleas resulting from such bargains be respected and recognized. In the ICTR, of course, we have had past experiences which have inhibited guilty pleas or plea agreements. But we are committed to removal of the factors that have so far inhibited detainees from entering into such agreements. If there is any success in this direction, we are certain it will again reduce the number of detainees that will eventually have to be processed in full and lengthy proceedings before the chambers of the ICTR.

In addition, there are twenty-six new targets for investigation. Again, with regard to those targets we are carrying out a process of assessing the evidence collected so far in respect of each suspect. Where the evidence is weak and there are poor prospects for producing fresh, strengthening evidence, the file will probably have to be closed and no more resources and time spent on it.

Where the evidence indicates that the target is not one of the most senior leaders suspected of being most responsible for crimes within the ICTR jurisdiction, I propose to take such measures as are necessary to divert the target away from prosecution before the ICTR, and to explore possibilities of transfer to national jurisdictions.

These measures would include transferring targets to national jurisdictions. I believe making allowance for the fact that some of the targeted suspects may not be reached for reasons of death or other cause and that some who are apprehended may be jointly charged and tried, it is reasonable to assume that the final number of indictments within this category will be lower than the 26 projected so far.

An important mechanism, therefore, for the successful implementation of the completion strategy is the referral to national jurisdictions of those cases in which the accused does not fall within the category of those bearing the greatest responsibility for the atrocities, whether the accused are already in detention pending trial or they are merely targets for investigation. The numbers of persons that we may have to deal with in this manner will become known only after the completion of the review that is in progress.

My immediate plan in this regard after the review would be to establish contact with States in which those in detention were arrested to negotiate the transfer of the accused concerned to their jurisdictions where appropriate.

There is another category of cases comprising 40 case files which were partly investigated but, because it was clear at the very early stages of investigations that the targets in question bore low levels of responsibility, they were already earmarked for transfer to national jurisdictions. We do intend to carry out a review of these files, with a view to determining the viability of each case before final plans can be drawn up for transfer. Those cases that clearly have no prospect of success will be expunged from the system, as it would serve no purpose to send them to national jurisdictions.

Regarding the remainder of the cases, I intend to negotiate with States, including the Government of Rwanda, for their transfer to the respective national jurisdictions. Because investigations are not complete in many of these cases, I am convinced that States that agree to receive such files, including Rwanda, will need assistance from the international community and from the United Nations to complete the inquiries and to mount the prosecutions under the supervision of the ICTR, which will continue to retain its primary responsibility for these cases.

It is evident from what I have said that, whilst the ICTR has formulated a well considered completion strategy, in line with the request of the Council, the picture of the full extent of our workload will become clearer in the few months ahead, and probably before the end of the year.

International cooperation from States remains a crucial factor in the successful conclusion of the strategy. Several high-ranking military and political indictees remain at large. We shall continue to search for them and to negotiate with the States in which they reside for their surrender to the Tribunal or their prosecution by the host State. Further surrenders of such high-level suspects to the Tribunal may also require the Office of the Prosecutor (OTP) and the Tribunal as a whole to re-evaluate their priorities in terms of targets for prosecution.

Our planning is based on the assumption that we shall receive the fullest cooperation from all States, particularly those within whose jurisdiction the fugitives are found. A policy of transferring appropriate cases to national jurisdictions in order to enable the Tribunal to deal with the major cases can only succeed with the cooperation of States that are willing and able to dispense justice under conditions of due process and fair trial. Those who are willing but are inhibited by shortcomings should receive assistance to enable them to discharge their obligations. In all these matters the Tribunal looks to the cooperation of all States and ultimately to the support of the Security Council.

The President: I thank Prosecutor Jallow for his informative briefing.

Mr. Pleuger (Germany): I would first like to thank Judge Meron, Judge Møse and Prosecutors Del Ponte and Jallow for the very impressive and comprehensive briefing they have given us.

Please allow me to make one remark and to ask two questions. The remark pertains to the broader picture of the juridical institutions that we now have in the international field. There are now various types of institutions in the field of criminal justice. First, we have the ad hoc tribunals, such as the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

Secondly, we have mixed tribunals, such as in Sierra Leone and possibly soon in Cambodia. Thirdly, we have national courts or chambers that receive international assistance, such as has been proposed for Bosnia, and finally, of course, we have the International Criminal Court (ICC).

The ad hoc tribunals have been important precedents and they were the only reasonable choice at the time they were created. Now, we are faced with a dilemma. It is not quite clear whether the tribunals will be able to finish their work within the timeframe set by the completion strategies. At the same time, we are increasingly aware that these tribunals are tremendously costly. The operation of the ICTY will soon have reached an expenditure of one billion dollars for trying a limited number of people.

What does this mean? Of course, we must stick to the ad hoc tribunals and make sure that the completion strategies are adhered to as much as possible. This might mean that we need, first, more ad litem judges, secondly, more flexibility in using the ad litem judges, and thirdly, increased pressure for cooperation with the court. We feel it is a scandal that Mladic, Karadzic and Gotovina are still at large.

Let us also look at the broader picture, now that we have various options at hand. We should promote the devolution of cases to national justice whenever there are sufficient guarantees for judicial standards and fairness of trial, and the Council should take up the

proposal we recently made here. This proposal contains four elements. First, the Council should take a realistic look at the various international and national judiciaries.

Secondly, the Council should encourage the various actors of international justice to cross-fertilize and to exchange information, expertise and personnel. Thirdly, the Council should set up an expert group to examine the performance of the various actors, which would also serve to check their comparative advantages. Fourthly, the Council should take into account in its future plans that we can now include the ICC.

For example, if Mr. Mladic is arrested only in 2007, that is one year before the supposed end of the ICTY trials, why would we extend the ICTY with all the costs involved, provided we could refer the case to the ICC for less than half the cost?

After these general remarks, I would like to address two questions to today's speakers. The establishment of a special War Crimes Chamber within the Bosnian State Court will contribute towards decongesting the agenda of the ICTY, which is important in the interests of compliance with the completion strategy. This strategy is important, also, in other instances.

My first question, to President Meron and Prosecutor Carla Del Ponte, concerns the prospects for a comparable process in Croatia and in Serbia and Montenegro to devolve cases from the ICTY to specialized national courts in those countries. My second question goes to President Møse and Prosecutor Jallow. According to the report, 40 Rwandese cases have been handed over by the ICTR Prosecutor to Rwandese judicial authorities. Beyond that, can they imagine an even broader process of devolving cases from the ICTR to national Rwandese courts?

Mr. Aguilar Zinser (Mexico) (*spoke in Spanish*): As the delegation of Germany has done, we too would like to express our sincere thanks to the Presidents of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda — Judges Theodor Meron and Erik Møse — for the exhaustive presentations they have made to the Security Council regarding the reports on their work. Those presentations have given us the useful information necessary to conclude that those judicial institutions are functioning efficiently and with the dedication to dispensing criminal justice and ending impunity. We also recognize the difficulties they face in seeking to complete their cases satisfactorily. We are considering their recommendations to the Council with regard to strengthening their capacity to carry out their work in the phase they are now beginning.

I would also like to extend a warm welcome to Mr. Hassan Bubacar Jallow, who was recently appointed Prosecutor for the International Criminal Tribunal for Rwanda. My delegation wishes him every success in his work and expresses its confidence in him. We would also like to congratulate Ms. Carla Del Ponte for the professional and independent work she has done as the Prosecutor of the International Criminal Tribunal for Rwanda, as well as to once again express our confidence in her ongoing work as the Prosecutor for the International Criminal Tribunal for the Former Yugoslavia.

Allow me to take this opportunity to make a few comments and ask a few questions. I should first like to turn to the International Criminal Tribunal for the Former Yugoslavia.

Mexico has on previous occasions stressed that full cooperation by all States with that Tribunal is essential to achieving the goals set out in the completion strategy and the ultimate goals for which the Tribunal was established, namely, to maintain peace and security in the region, bring about national reconciliation and put an end to impunity. In that regard we welcome the efforts and progress made with regard to the cooperation extended by Balkan States in apprehending persons charged by the Tribunal. However, as Security Council resolution 1503 (2003) itself recognized, we must remember that the States mentioned in the resolution should provide greater cooperation and assistance to the Tribunal in order to bring before it all persons charged, including those specifically named in the resolution. It is important for my country to emphasize that nothing at all should stand in the way of the Tribunal's ability to exercise its powers. There should be no obstacles to bringing accused persons before the Tribunal, with the full cooperation of the States involved.

Yesterday we welcomed the presence in the Chamber of Lord Ashdown and Judge Meron, who provided us with information regarding the establishment of a chamber within the State Court of Bosnia and Herzegovina to specifically address serious violations of international humanitarian law. Undoubtedly, that represents a significant step towards the full implementation of the completion strategy.

With regard to the International Criminal Tribunal for Rwanda, my delegation would like in particular to thank President Erik Møse for having presented to us an encouraging picture of the visible progress made concerning the efficiency of that Tribunal's judicial and administrative functions. In that connection, we believe that the Security Council should continue to consider with interest the request by President Møse to authorize the use of 9 ad litem judges at any given moment. We believe that will contribute to the sound implementation of the completion strategy. It will also make it possible for the investigations begun by Ms. Carla Del Ponte to lead to bringing those responsible to trial under the new Office of the Prosecutor.

I would like to ask Prosecutor Jallow some questions with regard to the completion strategy. My delegation is aware of the fact that Ms. Del Ponte began investigations of the Rwandan Patriotic Army. Resolution 1503 (2003) itself appealed to all States to cooperate with the Tribunal in those investigations. In the completion strategy, recently drafted by the Tribunal, it is, in the judgement of my delegation, not entirely clear what steps the Office of the Prosecutor will have to take to continue the investigations concerning elements of the Rwandan Patriotic Army. Although we are aware of the need to make some reductions in the list of accused persons, as has been explained here, that should not be at the cost of investigations begun by the previous Prosecutor. That would create an atmosphere of impunity. My delegation would therefore like to know from Mr. Jallow how he intends to continue those investigations and how that will be properly reflected in the completion strategy. Likewise, we would like to know what steps are going to be taken in order to have those investigations culminate in trials of the persons involved.

In raising those questions my delegation is aware that the purpose of the completion strategy is to focus on investigations and trials of those with the greatest responsibility for crimes that fall under the Tribunal's jurisdiction, namely, genocide, crimes against humanity and violations of international humanitarian law. However, we believe that there will be no chance for national reconciliation in Rwanda if impunity thrives or if the same treatment is not afforded to all perpetrators of crimes. There is therefore a need for independence and universal treatment.

Finally, we believe that the completion strategy has served to underscore the importance and complementary nature of national justice systems. We share the views expressed here by both Judges and both Prosecutors that it is important to have a very complete view of the cases in order to be able to transfer to national courts the cases that are indeed suitable for such treatment, depending on the circumstances and merits of the individual cases. However, we believe that enhancing the capacity of national courts is critical in order for the countries to actually be in a position to fulfil their tasks. We also believe that the necessary resources and capacities must exist in post-conflict periods to build institutions and to establish and strengthen independent and impartial judicial systems.

A few days ago in this Chamber, at the initiative of the United Kingdom, we discussed the role of the United Nations in justice and the rule of law. We believe that that discussion was very useful in helping us recognize the importance of our Organization's work in promoting and strengthening national judicial systems in post-conflict situations.

Mr. De La Sablière (France) (*spoke in French*): I should like to begin by thanking the President Meron, President Møse, Ms. Del Ponte and Mr. Jallow for their interventions, which my delegation listened to most attentively. Once again, we reiterate my country's support for the two Tribunals.

Like previous speakers, the French delegation has closely followed the implementation of the completion strategy as developed by the two Tribunals and supported by our Council, most recently in resolution 1503 (2003). It is, of course, clear that it is important for all of the players involved — the organs of the two Tribunals, the judges, the prosecutors, the registrars and, above all, the States of the regions concerned — to mobilize themselves with regard to arrests, transfers, cooperation, witnesses and evidence. The international community must assist and support competent national jurisdictions in the delocalization of these matters.

I have two very brief questions to add to those that have already been asked, addressed to President Meron and to President Møse. I should like to ask them whether they have planned or are planning specific mechanisms to follow up on a regular basis the way in which the completion strategy is being implemented in its particulars. Are they planning, in particular, for the

establishment of warning criteria to address any difficulties that may arise?

Sir Emyr Jones Parry (United Kingdom): The United Kingdom is particularly grateful for the presentations we have just heard. I thank the speakers for the work they are doing.

If I may, I should like to pay a particular tribute to Carla Del Ponte for her work, what she has done and what she will now do, with particular focus on the situation in the former Yugoslavia. I thank Mr. Jallow for his presentation, clearly proving himself a worthy successor.

Bringing war criminals to confront justice is an essential element of post-conflict situations and a basic element of establishing the rule of law — a precondition of creating peaceful, stable, democratic States. But there is, too, a balance with reconciliation, with the development of a community within the emerging country. That, too, has to be put into the equation.

The obligation on us, as the international community's representatives, and on our institutions is evident. We all need to do everything we can to delivery the indictees to the Tribunals and to give every possible support to the two Prosecutors. In the former Yugoslavia, I am conscious that British troops have been involved in the arrest of more than one third of those indictees who have been transferred to The Hague. And in the former Yugoslavia, in the annals of a very sad history, three individuals stand out even among the most serious of criminals. Karadzic, Mladic and Gotovina deserve to be brought to The Hague as soon as possible. In the past, these individuals have enjoyed protection from some — I am not quite sure whom, but they certainly include some of the State organs of the countries concerned. The United Kingdom very much hopes that that is no longer the case.

Quite apart from the legal and moral obligations, the international community and organizations like the European Union have policies that will hold directly accountable those countries and authorities that fail to take any action which is possible and, still worse, that afford protection to those individuals. We will all have noted very carefully the words of Ms. Del Ponte in her report when she described the degree of cooperation which she is receiving and has received from the authorities in Croatia, Republika Srpska and Serbia and Montenegro. Essentially, those involved in the region have to understand and accept that the fugitive status of these individuals remains a major obstacle to the final stage of reform and reconciliation across the region.

Indictments and the conduct of cases are properly for the courts and for the prosecutors. Having said that, I think I would welcome clarification of Judge Meron's remarks that it is between the Council and the prosecutor as to whether the subject of an indictment meets the standards set by the Council. I think I have quoted his remarks more or less verbatim. But the Security Council clearly has a duty to encourage the support of nations for the work of the courts and to ensure that the means are found for the necessary work to be carried out and that indictees with the gravest charges against them are tried before the Tribunal.

So the Security Council legitimately comments on the strategic framework for the International Tribunals, the balance between reconciliation and justice, and the evolving role of national courts as they gradually take over the responsibility of the Tribunals. It may set a completion strategy for the Tribunals and, indeed, comment upon the efficiency of the delivery of justice.

I think we have all noted Ms. Del Ponte's continuing commitment to completing the investigations and to ceasing the issuance of indictments beyond 2004, focusing on the most serious offenders. But we also heard Judge Meron's clear — and, I thought, very fair — statement on the implication for the calendar of 14 or so extra indictments. I welcome also the assurance that, in both Tribunals, the need for reform must be addressed, but clearly balanced out against the essential dimension of a due and fair legal process.

My conclusion is that we should pursue justice with renewed vigour. We should aim to complete the work at the same time within the proposed timetable. The role of the domestic war crimes chambers will be vital, and we should give them every support, not just because they will contribute to the completion strategies, but because justice delivered by such courts will be a sign of a maturing political process, both in Bosnia and Herzegovina and in Rwanda, and as such may be more acceptable locally.

I do not think that what we have heard will require a change of strategy so much as an intensification of effort and the fullest cooperation in practice between the Tribunals themselves and between the Tribunals and the States. As the Security Council keeps the issue under review, we will need to weigh and remember Judge Meron's wise words about the

need to complete the process with regard to the most serious crimes, and to do so in a way that is consistent with due process.

The United Kingdom has a number of detailed points. In my remarks I sought to address a general strategic issue, but in the ongoing discussion in the working groups my colleagues will bring out other points.

Mr. Karev (Russian Federation) (*spoke in Russian*): First of all, I would like to join my colleagues in thanking the Presidents and the Prosecutors of the two Tribunals for their extremely interesting and detailed statements. I would also like to make several comments and ask a question, as previous speakers have done.

The International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda have, without doubt, played an important role in the establishment of a modern and independent judiciary. Of course, it has not been possible to travel down that very long path without encountering problems and making mistakes — that is completely to be expected. As has been rightly noted, there have been problems related to very low productivity and a slow rate of work, and drawbacks and delays of various kinds in the organization of work.

We note with satisfaction the fact that in recent years the leadership of the Tribunals has persisted in trying to correct the mistakes and overcome the problems. In this respect, the insistence of both Tribunals on fully implementing the completion strategies by 2008-2010, pursuant to Security Council 1503 (2003), is of fundamental importance.

As noted in the resolution, that strategy is based on three fundamental elements: the prosecution and trial of the key indictees; the transfer of others to national courts; and assistance to the relevant States with a view to strengthening their judicial systems.

In this respect, an important contribution to resolving related issues is being made by the ad litem judges. In that context, we are sympathetic to the proposal of the President of the Rwanda Tribunal as to how the number of ad litem judges can be increased and greater use made of them in trials. We also welcome the proposal to establish a Special Chamber to deal with war crimes in Bosnia and Herzegovina and the passing on of the torch from the International Criminal Tribunal for the former Yugoslavia. That issue was discussed in detail yesterday here in the Council. We also believe that the competent judicial bodies in other Balkan States should consider similar cases. We note with satisfaction that the leadership of the Tribunals has moved from totally rejecting that possibility towards allowing that such a development might take place in the future. It has been made clear today that such a development would require the fulfilment of certain conditions, which is only to be expected.

In this respect, I would like to ask the leadership of the Yugoslav Tribunal whether, in addition to taking note of the necessity for changes in the work of those judicial bodies in the Balkan States, the Tribunal is carrying out any specific work with those States with a view to bringing about such changes in the judiciary and to ensuring that there is the same possibility for handing over cases as was done with Bosnia and Herzegovina.

We are also looking forward to hearing the answers to questions that were asked by our colleagues earlier.

Mr. Zhang Yishan (China) (*spoke in Chinese*): I would like first of all to thank Judge Meron, President of the International Criminal Tribunal for the former Yugoslavia (ICTY), and Judge Møse, President of the International Criminal Tribunal for Rwanda (ICTR), for their briefings on the annual reports and the activities of the Tribunals.

I am also grateful to Ms. Del Ponte and Mr. Jallow, the Prosecutors, respectively, of the ICTY and the ICTR, for the briefings that they provided on their work.

The Chinese Government attaches importance to the work of the two Tribunals in the establishment of judicial bodies in their respective areas. We would like to see the work of the two Tribunals prove positive for the development of international law in that area. We have every confidence in the capacity and ability of the Judges and Prosecutors of the two Tribunals, and we express appreciation to them.

In August, the Council adopted a resolution requesting the two Tribunals to increase their efficiency and implement the completion strategies, and appointing separate Prosecutors for the two Tribunals. The resolution also requested the Tribunal to focus on those indictees with the greatest level of responsibility and to consider referring those cases

involving mostly mid- and lower-level accused to domestic jurisdiction. We believe that those measures will help the two Tribunals to successfully accomplish their mandate. We have taken note of the fact that, in their briefings, the Judges and Prosecutors specifically referred to measures to be taken for implementing the completion strategies. We will give serious consideration to those recommendations and proposals. We hope that the completion strategies will be fully implemented.

We also believe that the success of the two Tribunals in implementing the completion strategies will depend upon the cooperation of the countries concerned. We hope that the two Tribunals will demonstrate wisdom and that the countries concerned will fully cooperate with them.

I would like to ask two questions. First, with regard to the ICTR, if the number of ad litem judges is increased from four to nine, and if the Tribunal transfers lower-level cases to domestic jurisdiction, can it ensure that all the trials will be completed within the time frame set out for the completion strategy?

Secondly, does the ICTR have other options if difficulties are encountered in transferring cases or if the pace of transfer is not what is expected? I would like a response on that.

Mr. Tidjani (Cameroon) (*spoke in French*): On behalf of the delegation of Cameroon, I would like to thank Presidents Theodor Meron and Erik Møse and the Prosecutors, Ms. Carla Del Ponte and Mr. Hassan Bubacar Jallow, for the clear and exhaustive presentation of their reports, which, together with the contents of the reports, enables the Council to assess the work done and the efforts that still need to be made to achieve the set objectives.

I shall limit my comments to the following matters.

Regarding progress made, we have noted with much interest that the pace of the activities of the International Tribunal for the Former Yugoslavia (ICTY) has been unprecedented in the period under review. To a large extent, that has also been true of the International Criminal Tribunal for Rwanda (ICTR). These meritorious efforts are the result of internal and external reforms that have been vigorously implemented by the leaders of the Tribunals.

As for future action, the reports emphasize the importance of the cooperation of the States concerned for the success of the completion strategy. My delegation therefore calls for the strengthening of open cooperation between the two Tribunals and States directly involved, particularly with regard to the ICTY. We believe that a regular exchange of views between the two Tribunals is necessary for the harmonious accomplishment of their respective tasks.

The two Tribunals must also be given the means necessary for their functioning and for carrying out their worthwhile reforms. We believe that for the Rwanda Tribunal to accelerate its work, strengthening its capacity is essential. Its leading figures have indeed asked for that, and particularly for an increased number of ad litem judges.

In conclusion, allow me to ask one or two questions.

The ICTY has presented a detailed completion strategy plan, which requires a number of reforms. My delegation would like more precise information about the implementation of such a strategy for Rwanda and about the assistance to be provided to the Rwanda Tribunal — for example, in terms of training and applicable law. How will the current system reconcile the need for punishment with the need for reconciliation, not only in Rwanda, but in the entire region?

We note that the Prosecutor will be concluding investigations by the end of 2004. What are the possible implications of that decision for the normal functioning of the special War Crimes Chamber?

In conclusion, we would like to express our appreciation for the efforts being made by the Presidents and the Prosecutors of the two Tribunals and their staff to bring to justice those individuals who, as President Meron has said, bear the greatest responsibility for the greatest atrocities.

Mr. Mahmood (Pakistan): We too are grateful for the comprehensive briefings of the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Pakistan fully supports the work of the two Tribunals and attaches great importance to the timely realization of their respective completion strategies.

We have noted the statement about the level of cooperation afforded to the ICTY in certain instances. We cannot express enough how important it is for the Tribunal to have full cooperation from all concerned in

the prosecution and ultimate conviction of the perpetrators of some of the worst war crimes committed in recent memory.

Through resolution 1503 (2003), the Security Council called on States to cooperate with the two Tribunals. We believe the Council must send a signal that it remains serious about ending impunity for war crimes, and that it will be watching closely as the Tribunals proceed further with their work, which has important applications for justice and the rule of law and respect for international humanitarian law.

To conclude with a question, we would like to ask what additional steps can be taken to elicit greater cooperation for the prosecutorial work of the two Tribunals.

Mr. Sow (Guinea) (*spoke in French*): I congratulate Judge Theodor Meron on his able presentation on the activities of the International Criminal Tribunal for the Former Yugoslavia (ICTY) during the period in question. I also warmly congratulate the ICTY on its tenth anniversary, which is, happily, marked by important and praiseworthy achievements.

Our full appreciation also goes to Judge Erik Møse, President of the International Criminal Tribunal for Rwanda (ICTR), Ms. Carla Del Ponte, Prosecutor of the ICTY, and Mr. Hassan Bubacar Jallow, Prosecutor of the ICTR, for their very comprehensive and instructive presentations. I welcome Mr. Jallow here, and wish him success in his mission. I reaffirm my appreciation for the positive achievements of his predecessor, Ms. Carla Del Ponte, whom we encourage. We pay a warm tribute to them all for the performance of their institutions in promoting and protecting human rights, international humanitarian law and the attainment of the rule of law.

Analysis of the reports shows the vast experience of the two Tribunals in creating legal institutions and in international cooperation, of which they have been the foundation in recent months.

What I have to say today concerns primarily the functioning of the ICTR, my questions having already been asked and my comments about ICTY having been covered by previous statements.

Thanks to reforms intended to improve its functioning, reforms invigorated by the recent appointment of Prosecutor Jallow, the ICTR now has better conditions in which to fully accomplish its mission and achieve its mandate within the set timeframe. In the new context described in the report, the ICTR is better able to achieve its main objectives defined in the completion strategy. However, for its part, the ICTR should draw up a detailed strategy, in keeping with our requests, to defer to national jurisdictions, including Rwanda, accused persons of middle or lower rank.

We take note of the commitment of the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) to present his plan of action before the end of this year. My delegation in this regard endorses the recommendations made by the President of the ICTR and we very much encourage our Council: firstly, to endorse the elimination of the prohibition of ad litem judges to take part in pre-trial proceedings — this requires the amendment of the ICTR rules; and secondly, to increase from four to nine the number of ad litem judges for the ICTR. We believe these requests are feasible inasmuch as we have already taken similar measures in regards to the International Criminal Tribunal for the Former Yugoslavia (ICTY). These reforms will contribute to a more rapid resolution of the cases before the Tribunal.

My delegation also calls on the Secretary-General to appoint as soon as possible the remaining three ad litum judges so that the ICTR can improve its ability to function.

I would also ask the question, already posed by China, that is whether, once these conditions are met, the Tribunal will indeed be in a position to complete its work within the time limit requested by the Council.

We invite the international community to help with the strengthening of the national jurisdictional capacities involved here, to enable them to take up the cases that would be referred to them by the ICTR. We particularly urge our peace partners to support Rwanda in its sustained efforts to consolidate its national judicial system. We believe that this is essential for restoring security and lasting reconciliation in that country so torn by genocide.

My delegation reiterates its appeal for the full cooperation of all States of the Great Lakes region in arresting at-large persons who are charged with grave violations of international humanitarian law by the ICTR. Undoubtedly, that willingness would facilitate the calling of witnesses before the Tribunal, whether for the prosecution or for the defence, and of the

accused. In any event, we have the conviction that no country has the right to help fugitives escape international justice by offering sanctuary in their territory.

To conclude, we would stress that the completion strategy of the work of the ICTR is under way already and is on the right track, with the proper impetus. By giving the Tribunal appropriate resources, consolidating it and responding to its requests to the Security Council, the international community would guarantee the success of a unique enterprise in Africa for promoting and protecting human rights.

Finally, I would like to commend the Presidents and Prosecutors of the ICTY and the ICTR for the progress they have achieved and especially for their commitment and dedication to the rapid restoration of lasting peace and reconciliation, both in the Balkans and in Central Africa.

The President: Before giving the floor to the Judges and the Prosecutors to respond to the questions that have been raised and make any additional comments they might wish to make, I have four speakers inscribed under rule 37, Bosnia and Herzegovina, Rwanda, Serbia and Montenegro and Croatia.

I therefore invite the representative of Bosnia and Herzegovina to take a seat at the Council table.

Mr. Kusljugić (Bosnia and Herzegovina): I would like at the outset to thank you for the opportunity to comment on the tenth annual report of the International Criminal Tribunal for the former Yugoslavia (ICTY) (S/2003/829) and to share with you some recent views of my Government regarding the work of the Tribunal.

Bosnia and Herzegovina welcomes the report of the ICTY President and Chief Prosecutor submitted to the Secretary-General. I am also taking this opportunity to thank both Judge Meron and Chief Prosecutor Del Ponte for their comments and clear messages presented to the Council today regarding Tribunal achievements in the last year and current problems they are encountering in their work.

Bosnia and Herzegovina fully supports the ICTY's activities and is committed to fulfilling its obligations related to cooperation with the Tribunal. We are committed to following the path of proven success strategies in order to overcome as soon as possible the difficult heritage of our past and to start building, with mutual understanding, a modern Bosnia and Herzegovina. Only in this way may we pass on to future generations the message of peace and development, based on mutual understanding and tolerance.

We deem that the Tribunal plays an important role in the process of inter-ethnic reconciliation in our country as well as in all of South-east Europe, since its work is based upon the individualization of responsibilities for war crimes. We also believe that the work of the ICTY will unveil new evidence regarding the atrocities committed from 1992 to 1995, thus providing new facts about the true nature of the conflict in the region.

We stress that, lately, the responsible institutions of Bosnia and Herzegovina, in cooperation with the experts of the Office of the High Representative, have made measurable progress, especially in the process of restructuring the Bosnia and Herzegovina court system at all levels. The new Legal Reform Unit, High Judicial and Prosecutorial Councils, and Special Chamber in the State Court and the Special Department in the Bosnia and Herzegovina Prosecutor's Office in the country are now functioning. Together with the Criminal Code, which entered into force on 1 March 2003, the court of Bosnia and Herzegovina is now operative. This will enable the ICTY to begin transferring some cases of mid- and low-level accused by the end of next year. However, we expect that the apprehension and trial of the most notorious offenders will remain the continuing responsibility of the United Nations and the international community.

Bosnia and Herzegovina expects the ICTY to take all possible measures to complete its investigations by the end of 2004, all trial activities at first instance by the end of 2008, and to complete all work in 2010, as decided in Security Council resolution 1503 (2003).

In order to better meet the requirements of the Security Council resolutions with regard to the work of the ICTY, especially those of resolution 1503 (2003), Bosnia and Herzegovina is fully committed to fulfilling all its obligations and is ready to cooperate with the responsible authorities of the countries in the region in apprehending all remaining at-large persons indicted by the ICTY.

Bosnia and Herzegovina expresses its hopes that the international community will, as part of the completion strategy, assist the national judicial system in improving its capacity to prosecute cases transferred to it from the ICTY. We also expect that that the ICTY

will further develop and improve their outreach programmes.

The war criminals who remain at large present a source of continued instability in the region. We underline that a lasting and stable peace in the region will not be achieved unless all suspected war criminals, including the two most notorious, Radovan Karadzic and Ratko Mladic, are brought to justice.

The President: The next speaker is the representative of Rwanda.

Mr. Gahima (Rwanda): Allow me to thank Council members for allowing my delegation to participate in this important debate. I would like to take this opportunity to thank the President and the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) for their reports and to assure them of my Government's continued support for their work.

Allow me also to take this opportunity to thank the Secretary-General and the Security Council for the recent decision to appoint a separate Prosecutor for the ICTR, a change in the structure of the ICTR that my Government had long advocated. We believe that this change will go a long way towards addressing some of the concerns that my Government has raised about the work of the Tribunal in the past.

The Government of Rwanda is committed to seeking justice for the victims of the 1994 genocide, particularly as far as the senior Government, military and civil society leaders who planned and oversaw the genocide are concerned. Promoting the rule of law, in general, and accountability for genocide and other violations of international humanitarian law that occurred in Rwanda between 1990 and 1994, in particular, has been one of the pillars of the programme of the Transitional Government of National Unity. Consequently, we attach very great importance indeed to the work of the ICTR.

To assist the ICTR to achieve its mandate, the Government of Rwanda has put in place mechanisms to facilitate its work. We have provided facilitation and hospitality to ICTR personnel in Rwanda for the last nine years. All judicial, law enforcement, central Government and local government organs in Rwanda have standing instructions to assist ICTR personnel in their work in our country.

We provide access to vital witnesses. We undertake investigations for the Office of the Prosecutor whenever we are requested to do so. We have put all evidence in our possession relating to cases in which the ICTR is interested at the disposal of its trial attorneys and investigators. We facilitate the travel of witnesses to testify before the ICTR. We continue to actively assist and cooperate with the Tribunal in locating fugitive genocide suspects with a view to their apprehension.

We regret, however, that the invaluable assistance that Government institutions and private citizens of Rwanda have provided and continue to provide to the ICTR, at considerable sacrifice and expense, often goes unacknowledged and unappreciated.

As the ICTR focuses on its completion strategy, it should be recognized that the people of Rwanda are stakeholders in the institution's work, with a legitimate right to express views on aspects of the institution's performance that could be further improved. Not only are we part of the international community, we are also the victims to whom the Tribunal was established to bring justice.

The following are some of the areas in respect of which the Tribunal's performance has had shortcomings that we feel require attention. The Tribunal is remote and alienated from Rwandan society. Few of our people know about its work. Still fewer care about it. The Tribunal has failed to have any significant impact, as was envisaged in Security Council resolution 955 (1994), which established the Tribunal.

The Tribunal's management organs have often worked as unrelated institutions lacking cohesion, instead of being complementary organs of the same institutions working in close collaboration. The Office of the Prosecutor has over the years failed to develop a realistic and comprehensive prosecution strategy. The Tribunal has failed to develop a credible and effective witness protection programme and has neglected to address other pertinent concerns and needs of victims and witnesses.

The Tribunal has hired perpetrators of genocide and close relatives and friends of suspects as defence investigators and legal assistants, who threaten genocide survivors who are prosecution witnesses. There are fee-splitting arrangements between genocide suspects in detention and defence lawyers, with the result that financial contributions made by the international community to bring to justice the perpetrators of genocide are used instead to enrich the

criminals and their families and friends and to fuel conflict in our region.

The Office of the Prosecutor has failed to indict and apprehend large numbers of prominent genocide suspects who remain at large in many countries. The Office of the Prosecutor has also failed to develop a credible and realistic completion strategy to date. The perception in Rwanda, and indeed the world at large, is that, in view of the vast resources at its disposal, the ICTR has until now been slow, inefficient and ineffective.

We would like to recognize that there has been some progress in addressing some of the concerns, which the Government and people of Rwanda have had with regard to the performance of the Tribunal. In this regard, I would cite the following examples: the appointment of a separate Prosecutor; the appointment of ad litem judges; and the initiatives taken by the new President of the Tribunal to expedite the pace of trials and to promote the effective functioning of the Tribunal.

Rwanda, like the rest of the international community, believes and hopes that the new leadership of the Tribunal offers a window of opportunity for addressing the problems that have plagued the Tribunal in the past and sets the institution on a course on which it shall leave a legacy of which we can all be justly proud in the years to come.

My Government reiterates its sincere determination to continue to render full support to the ICTR to enable it achieve its mandate. We also call upon the Security Council to continue to explore ways of making the ICTR more efficient and effective, and we take this opportunity to make the following recommendations for consideration by the Council.

As far as the proposed completion strategy is concerned, we recommend that there should be greater consultation between all the stakeholders concerned than has hitherto been possible. We recommend that the proposed completion strategy should urgently address the problem of the large numbers of perpetrators of genocide, whom the Office of the Prosecutor has not indicted and who are still at large in many countries. We also recommend that the completion strategy should address the financial implications of the transfer of cases to Rwanda and make provision as to how the financial resources required to assist Rwanda will be raised.

On the remoteness and alienation of ICTR from Rwandan society, we recommend that the Tribunal undertake a credible and substantial outreach programme to bridge the gap between it and Rwandan society. We are of the view that the ICTR could have very useful lessons to learn from the experience of the Sierra Leone Tribunal in this regard. We would also once again recommend that hearings of at least some of the cases being heard by the Tribunal in Arusha be conducted in Rwanda.

As regards the Tribunal's relationships with survivors, we urge the ICTR to resolve its long-standing misunderstandings with the survivors of the genocide through dialogue with their chosen representatives. Concerning the hiring of persons suspected of having participated in genocide, we recommend that the Government of Rwanda and ICTR agree on mechanisms for vetting prospective employees to ensure that persons responsible for genocide are not employed by the Tribunal.

We would also recommend the appointment of an independent commission to investigate and urgently to report on the presence, among the personnel of the Tribunal, of persons suspected of having committed genocide, and that proposals be made and measures undertaken to ensure that the perpetrators of the genocide and their relatives and friends do not continue to be unjustly enriched by money which the international community pays to ensure that they are brought to justice.

With regard to the treatment and protection of witnesses, we call upon the ICTR to provide adequate counselling and preparation to prosecution witnesses prior to their appearance before the Tribunal. We call also for the establishment of an effective witness-protection programme agreed upon between the ICTR and the Government.

As regards the mismanagement of the Tribunal in general, which the United Nations itself, in several reports, admitted has taken place, we urge greater collaboration between the various organs of the ICTR, so that they act as complementary organs of one institution instead of perceiving themselves as separate, distinct and competing organs.

We call upon the organs concerned to end recruitment practices based on factors other than merit, which have in the past had an adverse effect on the competence of personnel.

Lastly, with regard to the relationship between the ICTR and the Government of Rwanda, we believe that, in order to address shortcomings in the investigation and prosecution of cases, there should be closer collaboration between ICTR personnel and Rwandan prosecution and investigation authorities to ensure a better preparation of cases.

We recommend greater use of Rwandan professionals within the ICTR during the remaining period of its mandate, because they are more familiar with the facts and circumstances of the genocide, and their experience would be beneficial to the domestic courts of Rwanda as they begin to assume responsibility for the cases which the ICTR proposes to send to domestic courts.

Finally, we propose to enhance collaboration and cooperation through the appointment of liaison officers between the ICTR and the Government of Rwanda.

In conclusion, I would like to express my Government's appreciation to the Security Council and the Secretary-General for their continuing interest and support to the Tribunal.

The President: The next speaker on my list is the representative of Serbia and Montenegro. I invite him to take a seat at the Council table and to make his statement.

Mr. Šahović (Serbia and Montenegro): I wish first of all to congratulate you, Sir, on your assumption of the presidency for this month and to thank you for having convened this very important meeting. I wish also to express our appreciation to Judge Mose and Prosecutor Jallow of the International Criminal Tribunal for Rwanda (ICTR).

My delegation would like to thank the President of the International Criminal Tribunal for the former Yugoslavia (ICTY), Judge Theodor Meron, for his comprehensive briefings — yesterday on the referral of war crimes cases to national jurisdictions, and today on general aspects of the Tribunal's work, both in the General Assembly and here in the Council. We appreciate Judge Meron's assessment that the cooperation of my country with the Tribunal has improved, although much more needs to be done. We are fully aware of that.

We also listened to the statement of Chief Prosecutor Ms. Carla Del Ponte with great interest and attention, as always. I must say that I disagree with some of the points she made, although I do agree with others. What I mostly disapprove of is the manner in which the Prosecutor passes judgement, basically of a political nature, on the authorities of Member States here in the Security Council. That is not helpful.

I spoke in some detail this morning in the General Assembly about the report of the ICTY, and I will try to save the Council's valuable time by limiting my statement to just a few points.

First, I want to reiterate the position of the Government of Serbia and Montenegro that the individual responsibility of all perpetrators of war crimes committed during the conflicts in the former Yugoslavia should be established in proceedings before both the ICTY and national courts. In this context, I would also like to state my Government's full commitment to implementing Security Council resolution 1503 (2003).

Secondly, I will now offer a brief update on the results of my country's cooperation with the ICTY since the matter was last debated before the Council.

First, the Law on Cooperation with the Tribunal was amended in accordance with the ICTY Statute. Article 39 of that law, preventing the surrender of any accused indicted by the Tribunal after the passage of that Law, was deleted. All internal legal obstacles to full cooperation with the ICTY were thus removed.

Secondly, in the past year, Serbia and Montenegro transferred the following indictees to the Tribunal: Milan Milutinovic, former President of Serbia, who voluntarily surrendered on 20 January 2003; Vojislav Seselj, President of the Serbian Radical Party and member of the Federal Parliament, who surrendered on 24 February 2003; Franko Simatovic, former commander of the State Security Special Units, was arrested and transferred to the Tribunal on 30 May 2003; Miroslav Radic, former officer of the Yugoslav Army, indicted for crimes in Vukovar, surrendered on 17 May 2003; Jovica Stanisic, former head of State Security of Serbia, was arrested and on 11 June 2003 transferred to the ICTY; Zeljko Meakic, former commander of the notorious Omarska camp in Bosnia and Herzegovina, surrendered on 4 July 2003; Veselin Sljivancanin, former officer of the Yugoslav Army — the last of the so-called Vukovar Three — was arrested and transferred on 1 July 2003; and Mitar Rasevic, indicted for events in Foca, Bosnia and Herzegovina, surrendered on 9 August 2003.

Proceedings are under way for the surrender of Vladimir Kovacevic, a former officer of the Yugoslav Army indicted for crimes in Dubrovnik.

It is our hope that this list will serve to clarify possible misunderstandings arising from the data offered in the ICTY report. Namely, the chapter on the activities of the Prosecutor states that only one indictee — Veselin Sljivancanin — had been arrested, leading to the Prosecutor's conclusion that

> "Unfortunately ... Serbia and Montenegro ... apart from assisting with some voluntary surrenders, has failed to act upon most of the outstanding Tribunal arrest warrants" *(S/2003/829, p. 52)*.

We do not really understand why the Prosecutor seems to be saying that voluntary surrenders of the accused, followed by their transfer to the ICTY, are somehow of lesser value than arrests leading to the same transfers. We therefore find it necessary to point out that the voluntary surrenders are also the result of decisive efforts on the part of the authorities of Serbia and Montenegro to cooperate with the Tribunal, and lead to the same results as do the arrests of indictees. Hence, with all due respect, the transfer of a former President, a former head of State Security and several army officers should not be qualified as a mere "assisting with some voluntary surrenders".

Thirdly, with regard to access to witnesses and suspects, 130 individuals — including three former heads of State — were released of the obligation not to disclose State, military or official secrets in order to testify before the ICTY. Proceedings are under way to release a further nine individuals from the same requirement. The process will continue.

Fourthly, regarding requests for documentation, Serbia and Montenegro has, inter alia, handed over to the ICTY all existing transcripts from the Supreme Defence Council meetings; verbatim records from all closed sessions of the National Assembly of the Republic of Serbia; and 74 confidential documents of the Counter-Intelligence Service of the Yugoslav Army. Altogether, we have handed over to the Tribunal more than 7,000 classified documents since the beginning of 2001.

Permit me in this context once again to draw the attention of the Council to the mention in the report of the June 5 decision of the Trial Chamber pursuant to rule 54 *bis*, granting the prosecution's request for a binding order requiring Serbia and Montenegro to produce certain documents to the Tribunal in connection with the Milosevic case. Serbia and Montenegro complied with that request, which was related only to documents of the Supreme Defence Council. Unfortunately, however, the report failed to mention the 19 June decision of the Chamber relating to the same case, rejecting the prosecution's request for general access to State archives. Therefore, it was the Chamber itself — not our Government — that limited this kind of general access to the Prosecutor. Regardless, Serbia and Montenegro is continuing to search for modalities to facilitate the Tribunal's access to the State archives.

I should like to conclude by stating that Serbia and Montenegro stands ready to cooperate further with the ICTY. I agree with the Prosecutor that our cooperation with the ICTY is complex; it is so for many reasons. However, I cannot agree that our cooperation is not proactive. My Government is actively undertaking efforts in various areas of cooperation, as I indicated earlier. Whether the cooperation is full or not is a question of perception, much like the question of whether a glass is half full or half empty. I want to emphasize that, in the past three years, we have filled the glass significantly; we will continue to fill it until it is full. It is a process, and to complete it successfully, we also need constructive engagement and understanding on the part of the Tribunal, especially the Office of the Prosecutor.

The President: The next speaker inscribed on my list is the representative of Croatia. I invite him to take a seat at the Council table and to make his statement.

Mr. Drobnjak (Croatia): I should like to begin by re-emphasizing Croatia's full commitment to close and unrestricted cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY). We recognize the far-reaching importance of the Tribunal's work and its significance for long-lasting post-war stability in South-Eastern Europe. As an early advocate of the Tribunal and its goals, Croatia continues to maintain a close and constant dialogue with the Office of the Prosecutor and the Tribunal. We commend the accomplishments of the Tribunal, but we reserve the right to state that, when it comes to ICTY efficiency and practice, sometimes there remains room for improvement.

Perception is often the only political reality that matters, regardless of facts and arguments. It is

therefore essential not to allow perception to prevail as the guiding framework for evaluation of the cooperation of the countries concerned with the ICTY and all the problems that might arise from it. Bearing in mind the high political importance and sensitivity of the issue, we must insist that any assessment regarding cooperation with the ICTY — regardless of the country involved or the political circumstances surrounding it — must be based on facts proved beyond a reasonable doubt.

One such fact is that Croatia has achieved full compliance with respect to the transfer of documents to the ICTY. That was recognized and confirmed by the Prosecutor during her recent visit to Zagreb. We can state with satisfaction that there are no outstanding issues between Croatia and the ICTY but one. With the exception of the so-called Gotovina case, Croatia has fulfilled all its obligations towards the Tribunal. The fact is that, in the Gotovina case, the indicted person remains at large. The Croatian Government keeps the Office of the Prosecutor updated regularly on the activities it has been undertaking to discover the indictee's whereabouts and to ensure his presence before the Tribunal. Consistent with the Rules of Procedure and Evidence of the Court, on 6 October this year, the Croatian Government submitted its third report pursuant to rule 59, describing the actions undertaken on the matter.

Notwithstanding the importance of resolution 1503 (2003) for the timely closure of ICTY operations and the successful completion of its work, and fully respecting the substance of the resolution, we feel disappointed at connotations stemming from its operative paragraph 2 or any consequent attempt to put in equal context the name of the retired Croatian General Ante Gotovina with those of Radovan Karadzic and Ratko Mladic. The Tribunal certainly remains the place where the innocence or guilt of any and every indicted person must be determined. And, although technically it might be in conformity with the law — all three of them have been indicted by the Tribunal — putting their names in the same sentence hardly represents an act of historic justice.

I am authorized to state that the Croatian Government remains determined to take all measures required within its own borders for prosecuting perpetrators of all crimes insomuch as they are within the reach of its judicial system. In addition, the Croatian Government calls upon all States to share any information that might facilitate the successful completion of this case. But Croatia cannot act outside its sovereign territory. Arrests in ICTY cases are the shared responsibility of the international community. In that connection, the case of Radovan Karadzic in particular comes to mind.

Resolution 1503 (2003) endorsed a plausible exit strategy for the Tribunal, and Croatia joins others in support for the envisaged timetable for the completion of the ICTY's work. Respecting the benchmarks — starting with the completion of all investigation by the end of 2004 and a transparent determination of the final number of new indictments by that date — not only is a question of the effective administration of justice, but also will make not a small contribution to the streamlining of the confidence-building and stabilization process in the region aimed at new challenges and perspectives. The final advance along that road will be marked by the day when ICTY indictees disappear from the front pages of the local print media and are replaced by those who are at the forefront of rapid economic development and full integration into the European Union.

Strengthening national legal systems, which figures prominently in resolution 1503 (2003), also contributes significantly to the Tribunal's completion strategy. The Croatian judiciary has independently initiated a number of proceedings against the perpetrators of war crimes in Croatia. We are ready to continue to cooperate closely with the ICTY in conducting such trials. Under existing Croatian legislation, ICTY representatives are entitled to follow the proceedings and to have access to Court files, while evidentiary material obtained by the ICTY can be used directly in domestic trials. A readiness for broader, transparent international monitoring of war crimes trials has been indicated. We are pleased that the report notes the positive trends in cooperation between the Office of the Prosecutor and the Office of the State Attorney of Croatia with regard to prosecution before national courts.

Finally, while once again emphasizing Croatia's determination to continue its cooperation with the ICTY, I should like to make an observation that goes beyond the legalistic framework and the strict letter of law. For the countries in the region, the accurate historical and political record established through the Tribunal's jurisprudence is no less important than the legal record and the very punishment of perpetrators.

In the part of the world under ICTY jurisdiction, "law" and "justice" are two similar, but not entirely equal, words. What is in strict accordance with the law is not necessarily always just. The Tribunal must administer the law and make all the guilty pay for their crimes. But the Tribunal's final record for history must, above all, be just, so that all those — people and countries alike — who suffered so much can find in it eternal solace and not grounds for new controversies or discontent. We are confident that, in the very end, both law and justice will be served well.

The President: Before proceeding to give the floor again to the judges and the prosecutors, I would just like to note that a number of the questions I heard during the course of our discussion this afternoon were either slightly repetitive in nature or variants of the same theme. I hope in considering your replies that you would try to group them together and answer them in as succinct and summary a form as you feel comfortable with.

With those brief preliminary comments, I shall now give the floor to Judge Meron to respond to the comments and questions raised.

Judge Meron: I shall try to be brief, and it is indeed my intention to group questions together. Let me start briefly by expressing my gratitude to the members of the Council for their interest in the subject that is so important to all of us — international justice in the former Yugoslavia. I find your questions important and will try to answer them briefly and as well as I can.

The first question I will address was asked by the Ambassador of Germany regarding the prospect for transfer or devolution of cases — going beyond the Sarajevo Chamber, which we discussed yesterday and today — in other words, to Belgrade and Zagreb.

Let me start by saying that I, and I believe very many of my colleagues who are judges, believe that war crimes trials have the greatest resonance when they take place close to the area where crimes have been committed, close to the places of residence of the victims. That is certainly something all of us would like to encourage. But, as the Ambassador of Germany pointed out, there are conditions for this devolution or transfer. Basically, we must be satisfied that the courts in a particular area or State conform fully to international due process and human rights. We will not cooperate with the transfer of cases to jurisdictions which might be tainted by ethnic, religious or national bias. But I believe that we are moving forward on all of those requirements in the States concerned.

Let me now say specifically a few words about Belgrade. As I have already pointed out, I myself visited the venue of the new Special Chamber in Belgrade. I believe that Chamber will have quite a few candidates for trials who are in the territory of Serbia. I do not believe that they will lack work; they are already beginning.

I believe the Prosecutor has given us today some extremely useful information on page 2 of her statement, where she speaks of the cases of 62 suspects whom the ICTY does not intend to indict and who presumably would never be transferred to The Hague. Those cases are intended for investigation and prosecution in the various States of the former Yugoslavia. As you see, she gives us facts and figures on those transfers that I find very useful.

As far as I know, Zagreb does not have a special chamber, but in Croatia there has been quite significant development of a law on war crimes. The absence of a special chamber should not lead us to conclude that devolution or transfer would not be possible in appropriate circumstances.

One thing which must be made clear, as the Prosecutor has, I believe, correctly pointed out, is that people who are covered by the existing indictments that she and I referred to are the senior cases. Those are cases of such seniority that they would not be appropriate for transfer to local jurisdictions. Those cases would create too many pressures on the local social and political environment. However, having said that, I would like to reassure the Council that we are keeping this question under constant review.

As the situation in the former Yugoslavia becomes more normalized, we will be — and I am sure the Prosecutor will agree with what I am saying — reviewing our figures and data and perhaps identifying, in due course, additional candidates for transfer.

The representative of Russia asked a related question about our work in encouraging further development of judicial systems in the area in order to allow for additional transfers. I would like to assure him that we are working on that very seriously and consistently.

The ICTY is only one of the international institutions involved in legal assistance to the countries of the area. For example, when Serbia and Montenegro recently adopted its war crimes code, it was aided very significantly by the Organization for Security and Cooperation in Europe (OSCE) and by the International Bar Association. We in the Tribunal have been sending regularly to States in the area our comments about how to improve their proposed drafts, and we will continue to do so.

The delegate of France asked whether we have established specific mechanisms to follow implementation of the completion strategy on a regular basis. I would like to assure him that we are very much aware of the need to go that way, and indeed we have already established a number of committees whose principle obligation is to deal with this question. Those committees include bodies charged with the short-term and long-term planning of cases and also long-term forecasts of how quickly, and with what difficulties, we will move forward in implementing our policy of completion strategy.

Moreover, bodies that we already have, such as the Rules Committee and the Coordination Committee — which, as you know, brings together the President, the Registrar and the Prosecutor — deal with these questions on a daily basis. There is practically no day when I do not meet with my staff to look at the results of those Committees and try to resolve immediate problems that have arisen. I regard this as my personal responsibility and not only the responsibility of the institution. We will continue working very hard on this.

The United Kingdom delegate asked me to clarify a statement I made regarding a certain matter between the Council and the Prosecutor. He referred specifically to the Council's expectation in its resolution 1503 (2003) that the Prosecutor would complete all investigations by the end of 2004 by concentrating on the prosecution and trial of the most senior leaders suspected. That is a directive that the Council gave to the Tribunal and, more specifically in this case, to the Prosecutor.

Those directions are the Council's directives; hence it is the responsibility of the Council and of the Prosecutor to interpret them in good faith. The interpretation of these directives is not, according to resolution 1503 (2003), an appropriate judicial function. That is why I said that this is a matter between the Prosecutor and the Security Council.

But let me add one word here. It is entirely appropriate for the Security Council to define such broad goals and directives. I must say that it would not be appropriate for the Council to go into great detail in such directives, because such directives should not encroach upon on the prosecutorial independence of the Prosecutor. In other words, broad guidelines, yes; specific guidelines that encroach on her prosecutorial independence, no.

Having finished with the specific questions, there is only one concluding point I would like to make, and I apologize if I have forgotten some questions. Several representatives, and especially the representatives of Cameroon and, in a way, of Guinea, asked questions that have a bearing upon our strategy for eventually concluding our work. The only thing I would like to say about that today is that we have started to study various structural factors that will be required — and about which we will one day brief the Security Council — in order, one day, to change the shape of the Tribunal by, for example, finishing our trials and perhaps establishing another appeals chamber, as there will be an accumulation of appeals. Those are the sorts of long-term issues that I feel it is our responsibility as judges to start thinking about and, eventually, share our ideas and material with the Council.

The President: I thank Judge Meron for his participation in our meeting today and for the clarifications he has just provided.

I now give the floor to Judge Møse to respond to any comments or questions made of him.

Judge Møse: I would first like to take up the question raised by the Ambassador of Germany relating to the 40 cases to be transferred to national jurisdictions. It is of course too early now to know exactly how many of those cases will eventually end up in any particular country, for instance, Rwanda. That is a question that will have to be addressed by the Prosecutor after a review of the cases he just referred to. What we can say now in terms of the Tribunal as a whole is that the Chambers have not yet been seized with any requests under rule 11 *bis* to transfer any case to any national jurisdiction. That is where we are now. Only when we know the possibilities explored by the Office of the Prosecutor, and when that Office makes a request and the process is started, will we be able to

fully answer that question. Should any such cases end up in Rwanda, then I certainly would agree that there will be a need for the international community to assist and to ensure that there is sufficient infrastructure in place and resources available to ensure the necessary guarantees at the domestic level.

I should now like to turn to the issue raised by the French Ambassador. I agree with the analysis by President Meron in that regard. Of course, "completion strategy" is an ambiguous term, because there is the completion strategy of the Prosecutor, on the one hand — namely, regarding the number of indictments to be brought to the Tribunal — and, on the other hand, there is the completion strategy of the Tribunal as a whole. The Tribunal as a whole is dependent on the numbers proposed by the Prosecutor. But each of the three branches of the Tribunals must analyse, and now internalize, the significance of the completion strategy. In other words, the techniques employed will be the overall responsibility of the presidency, then overall responsibility within the Coordination Council. Thirdly, there will be an ongoing internal assessment within each of the three branches regarding how each is actually performing and progressing with its completion strategy. As a short-term measure, we will certainly involve the new trials committee, which has already contributed to ensuring a steady flow of cases. There may be other committees involved as well, but that is where we are now.

Many representatives asked for a more detailed completion strategy, and I certainly agree with them. But it is difficult to provide details at this stage. Only when we know the exact numbers we are talking about, after the current revision and review of files, will we be able to return to the Council. That will be an ongoing process. There may be a review of the 22 detainees mentioned by the Prosecutor, as well as of the 16 indictees and the 26 suspects at large. But as soon as that is clarified — and, again, I think that the words of the Prosecutor were encouraging — we will come back to the Council with revised provisions and projections.

If we get the nine ad litem judges, will we fulfil the task? That question is linked to the previous one. In life it is impossible to give guarantees, especially when it comes to international criminal justice. Again, we will come back to this issue when we have a detailed strategy. But what we can say is that only with the nine ad litem judges will it be possible to achieve what we have to achieve. Without them we will not succeed. That is certain.

There was a reference to regular exchanges or meetings between international institutions and courts. That is an interesting idea, and it has been tested in the past. For instance, there was a meeting between the ICTY and the ICTR three years ago in London, which was followed by a meeting in Dublin two years ago. There may be other such meetings. The problem is that when one takes time to exchange views, then one loses time for sitting in trials. That is, therefore, a difficult balancing process. But we are aware of that possibility and will consider it carefully.

I think that brings me to the end of the questions raised regarding the overall responsibility of the Tribunal. Let me simply thank all delegates for their very interesting and fruitful observations and comments. They will certainly be taken home to Arusha and made known to our colleagues. Let me also say that I noted with pleasure the statement made by the delegation of Rwanda to the effect that Rwanda supports our work and that it fully intends to cooperate.

The President: I thank Judge Møse for his participation and for the clarifications he has just provided.

I now give the floor to Prosecutor Del Ponte to respond to any comments or questions.

Ms. Del Ponte (*spoke in French*): I shall be very brief, as President Meron has already answered almost all the questions. I should just like to touch upon two issues.

First, I believe that the Security Council's attention to our activities is very important. I would ask the Council to continue its attention to the work of the Tribunal and the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, as this is a very delicate moment. Therefore the success of our completion strategy will depend upon the support that the Council extends to our work.

Secondly, as for the possibility of States' assuming cases, I shall not go into detail. I simply wish to note the importance of States' being able to take on such cases, because on the day when the local judicial authorities in Serbia and Montenegro, Croatia and Bosnia and Herzegovina are in a position to judge and try accused persons of any ethnic group, that is when

we shall be able to say that reconciliation has been achieved in those countries.

We are very far from that, but the beginnings are promising. Prosecutorial specialists in war crimes have been appointed and are currently drafting laws. We are already cooperating with these prosecutors, who have come to us. We assist them in their work and cooperate usefully with them. We also support their investigations, because it is important in those countries that cases and, above all, investigations be undertaken with the utmost respect for equity.

I believe that next year we will be able to be more specific. The transfer of cases will begin only in 2005. When we complete our investigations, we will be able to begin those transfers and be more specific next year. I can say, however, that the beginnings have been very positive and we are following them up.

The President: I shall now give the floor to Prosecutor Jallow to respond to any comments or questions.

Mr. Jallow. I will respond briefly to three comments.

First, I turn to the concern of the Ambassador of Germany in relation to the 40 cases. The President of the International Criminal Tribunal for Rwanda has already made some clarification in that respect, but I should like to say that these are only earmarked for transfer; none of them has yet been transferred, and not all of them are earmarked for transfer to Rwanda. Some are earmarked for transfer to other jurisdictions. We have yet to finalize the list. We have to review the cases and determine whether there is, in fact, a possibility of success if these cases are transferred and prosecuted.

We also have to work out, of course, the terms and conditions for the transfer. We have to be satisfied that the countries or the jurisdictions to which the cases might go are capable of providing fair trials, in accordance with the standards that have been set by the United Nations, which have to be satisfied. If there is a lack of capacity, that issue could be addressed by the Security Council or by the United Nations itself in coming to the assistance of the State and providing support for its judiciary in order for it to be able to undertake the prosecution of these cases.

I think, as has been rightly noted, that one of the important legacies of this sort of practice is that capacity has to be built in the countries or regions where these events occurred. Some capacity has to be built up in the judiciaries and other institutions for them to be able to deal with such incidents when they occur. That is a primary concern of the Court I am coming from — the Special Court for Sierra Leone — where we are very much concerned with developing the capacity of the Sierra Leonean national judicial system to respond to these cases and to deal with them expeditiously. That will be the process we will go through for handling the cases.

The Ambassador of Mexico raised questions concerning the Rwandan Patriotic Front (RPF). Among the 26 targets for investigation, there are some members of the RPF. That is as much as I can explain to the Ambassador of Mexico. Secondly, I assure the Council that our mandate is to prosecute those persons who bear the greatest responsibility for whatever may have occurred. The decisions of the Prosecutor are taken on the basis of the evidence and of the law. I wish to assure my colleague on that point.

With regard to the issue raised by the representative of China as to whether the combination of the completion strategy and early transfer would lead to a completion of the cases by the target dates, as the President has said, the judicial process is not easily predictable. We have to resort to a combination of strategies. What is clear is that, if we do not have additional ad litem judges, we cannot even start prosecution of the cases which are already ready for trial. If we do combine the strategy of transfer to national jurisdictions with a strategy of increasing the number of ad litem judges and also resorting to other measures, I am optimistic that we could meet the targets which have been set by the Security Council.

Other than that, I should like to thank the Council for its interest in and its support for our work.

The President: There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

I take this opportunity, on behalf of the Security Council, once again to thank Judge Meron, Judge Møse, Prosecutor Del Ponte and Prosecutor Jallow for taking the time to brief the Council today.

The meeting rose at 6.50 p.m.

United Nations S/PV.4839

Security Council

Fifty-eighth year

Provisional

4839th meeting

Friday, 10 October 2003, noon

New York

President:	Mr. Cunningham	(United States of America)
Members:	Angola	Mr. Antonio
	Bulgaria	Mr. Tafrov
	Cameroon	Mr. Chungong Ayafor
	Chile	Mr. Maquieira
	China	Mr. Wang Guangya
	France	Mr. Duclos
	Germany	Mr. Trautwein
	Guinea	Mr. Sow
	Mexico	Mr. Aguilar Zinser
	Pakistan	Mr. Khalid
	Russian Federation	Mr. Safronkov
	Spain	Ms. Menendez
	Syrian Arab Republic	Mr. Mekdad
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry

Agenda

Letter dated 2 October 2003 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council (S/2003/934)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

03-55223 (E)

The meeting was called to order at noon.

Adoption of the agenda

The agenda was adopted.

Letter dated 2 October 2003 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council (S/2003/934)

The President: I should like to inform the Council that I have received a letter from the representative of the Sudan in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In accordance with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Abdalla (Sudan), took a seat reserved for him at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

After consultation among members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council welcomes the agreement on security arrangements reached in Naivasha, Kenya, between the Government of the Sudan and the Sudan People's Liberation Movement/Army (SPLM/A). The Council reiterates its welcome for the signing of the Machakos Protocol, which represents a viable basis for a resolution of the conflict in Sudan. The Security Council looks forward to the successful conclusion of a comprehensive peace agreement, based on the Machakos Protocol. The Council further expresses its appreciation of the key role played by the Intergovernmental Authority on Development (IGAD), under the leadership of the Kenyan President, the Kenyan Special Envoy, the envoys of the other IGAD member States and the International Observers in the Sudan Peace Talks.

"The Security Council also welcomes the continuation of the ceasefire and the establishment of the Verification and Monitoring Team, Joint Monitoring Commission and the Civilian Protection Monitoring Team and encourages Member States in a position to do so to contribute financial and logistical resources.

"The Security Council assures the parties of its readiness to support them in the implementation of the comprehensive peace agreement and requests the Secretary-General, in this connection, to initiate preparatory work, as soon as possible, in consultation with the parties, the IGAD facilitators and the International Observers, on how the United Nations could best fully support the implementation of a comprehensive peace agreement."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2003/16.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 12.05 p.m.

United Nations S/PV.4840

Security Council

Fifty-eighth year

Provisional

4840th meeting

Monday, 13 October 2003, 5.40 p.m.
New York

President:	Mr. Negroponte	(United States of America)
Members:	Angola	Mr. Constantino
	Bulgaria	Mr. Tafrov
	Cameroon	Mr. Belinga-Eboutou
	Chile	Mr. Maquieira
	China	Mr. Wang Guangya
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Guinea	Mr. Sow
	Mexico	Mr. Aguilar Zinser
	Pakistan	Mr. Khalid
	Russian Federation	Mr. Lavrov
	Spain	Mr. Arias
	Syrian Arab Republic	Mr. Mekdad
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry

Agenda

The situation in Afghanistan

Letter dated 7 October 2003 from the Secretary-General addressed to the President of the Security Council (S/2003/970)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

03-55531 (E)

The meeting was called to order at 5.40 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Afghanistan

Letter dated 7 October 2003 from the Secretary-General addressed to the President of the Security Council (S/2003/970)

The President: I should like to inform the Council that I have received a letter from the representative of Afghanistan, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Farhâdi (Afghanistan) took a seat at the Council table.

The President: The Security Council will now begin its consideration of the item on the agenda.

The Security Council is meeting in accordance with the understanding reached in its prior consultations. I should like to draw the attention of members to the following documents: photocopies of a letter dated 10 October 2003 from Afghanistan, which will be issued as a document of the Security Council under the symbol S/2003/986; and S/2003/970, letter dated 7 October 2003 from the Secretary-General. Members of the Council also have before them document S/2003/984, which contains the text of a draft resolution prepared in the course of the Council's prior consultations.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution. Unless I hear any objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Angola, Bulgaria, Cameroon, Chile, China, France, Germany, Guinea, Mexico, Pakistan, Russian Federation, Spain, Syrian Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1510 (2003).

I shall now give the floor to those members of the Council who wish to make statements following the voting.

Mr. De La Sablière (France) (*spoke in French*): France has just voted for the draft resolution that has been adopted as resolution 1510 (2003).

Afghanistan is now at a critical juncture for its future. We commend the determination of the international community to support the Afghan people and authorities to assist them to meet the immense challenge of reconstruction and peace.

For its part, France is already greatly involved in Afghanistan, and intends to remain so. With respect to security, French forces are taking part in the International Security Assistance Force (ISAF) and in the operations against terrorist networks in the framework of Operation Enduring Freedom. Moreover, the French army is helping, side by side with United States forces, in the training of a new Afghan army.

Nevertheless, France considers that the extension of the ISAF mandate that the Security Council has just decided on does not entail a commitment of its forces outside Kabul. France does not plan to involve itself in missions beyond those that it is currently fulfilling.

The resolution authorizes ISAF to protect international civil personnel involved, in particular, in reconstruction efforts and humanitarian assistance. We understand that the protection provided by ISAF relates above all to the civilian personnel of the provincial reconstruction teams (PRT).

It is essential today that the international community give its full support to the Afghan authorities to enable them to exercise effective power over the entire Afghan territory. This is the full meaning of the Bonn Agreement, in both the letter and the spirit. The international community must spare no effort to help Afghanistan to take its fate into its own hands once again. France will continue, with many other nations, to do its part.

The President: There being no other speakers inscribed on my list, the Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The Security Council will remain seized of the matter.

The meeting rose at 5.50 p.m.